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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 18, 2023
88th Legislature, Number 44
The House convenes at 10 a.m.
Part One

Three bills are on the Major State Calendar, one resolution is on the Constitutional Amendments Calendar, and 30 bills are on the General State Calendar for second reading consideration today. The table of contents for Part One of today's *Daily Floor Report* 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 18, 2023
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Part 1

SUBJECT: Continuing the PUC and OPUC

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Hunter, Hernandez, Anchía, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

1 absent — Dean

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; Michele Richmond, Texas Competitive Power Advocates; Kenneth Flippin, US Green Building Council Texas Chapter (*Registered, but did not testify*: Judd Messer, Advanced Power Alliance; Tracy Morehead, Apex Clean Energy; Mark Bell, Association of Electric Companies of Texas; Jason Ryan, CenterPoint Energy; Scott Hutchinson, Entergy Texas; Jason Sabo, Environment Texas; Shannon Ratliff, Jupiter Power; Sarah Floerke Gouak, Lower Colorado River Authority; Jessica Oney, NRG; Michael D. Lozano, Permian Basin Petroleum Association; Adrian Shelley, Public Citizen; Michael Ruggieri, Southwestern Elec. Power Co.; Ashley Myers, Texas Association of Water Companies; Walt Baum, Texas Cable Association; Julia Harvey, Texas Electric Cooperatives; Joshua Houston, Texas Impact; Shana Joyce, Texas Oil & Gas Association; Shelly Botkin, Texas Public Power Association; John Pitts, Jr, Texas Solar Power Association; Mance Zachary, Vistra Corporation; Damon Withrow, Xcel Energy)

Against — (*Registered, but did not testify*: Henry Bohnert)

On — Emily Johnson, Texas Sunset Advisory Commission (*Registered, but did not testify*: Kristi Hobbs, Electric Reliability Council of Texas; Courtney Hjaltman, OPUC; Thomas Gleeson, Public Utility Commission)

BACKGROUND: The Public Utility Commission of Texas (PUC) oversees the operations of electric, water, and telecommunications utilities. The Commission was originally established in 1975 for the purpose of regulating rates and

services of monopoly utilities, but, since the general deregulation of telecommunications and electric utilities by the Legislature, the PUC's role has shifted to the operation of regulated activities and the oversight of competitive markets in these sectors. As part of Sunset legislation in 2013, the Legislature transferred certain economic aspects of water utility regulation, including ratemaking, from the Texas Commission on Environmental Quality to PUC.

Functions. PUC's established mission is to protect customers, foster competition, and promote high-quality infrastructure. The commission supervises the Electric Reliability Council of Texas (ERCOT) and the competitive electric markets within the ERCOT region. PUC conducts utility rate cases to ensure appropriate prices, licenses utility industry professionals, and investigates customer complaints and violations of the agency's rules. The Texas Universal Service Fund, which supports landline telephone service in rural areas, is administered by PUC.

Governing structure. In 2021, as part of reforms in response to the Winter Storm Uri crisis, the Legislature expanded the number of PUC commissioners from three to five members, who are appointed by the governor in consultation with the Senate. Commissioners serve staggered, six-year terms with the chair designated by the governor.

Funding. In fiscal 2021, the PUC's budget was $16.1 million, mostly from general revenue. The majority of the commission's expenditures in fiscal 2021 were related to utility regulation and oversight of market competition through contested cases and rulemaking.

Staffing. PUC had 166 employees in fiscal 2021, although it has authority for a staff of 209. Staff are organized by overall function rather than specific industry.

OPUC. The Legislature established the Office of Public Utility Counsel (OPUC) in 1983 as a separate agency from PUC to represent the interests of residential and small commercial consumers in utility matters. OPUC advocates for consumers in rate cases and contested cases, participates in PUC rulemaking projects, represents consumers as a board member of ERCOT, and addresses consumer inquiries and complaints.

PUC and OPUC will be discontinued on September 1, 2023 if not continued in statute.

DIGEST:

CSHB 1500 would continue the Public Utility Commission (PUC) and the Office of Public Utility Counsel (OPUC) until September 1, 2029. Enabling statute for both agencies would no longer be subject to expiration. The bill would:

- specify and limit the ways PUC could give directives to ERCOT;
- add a PUC commissioner other than the chairperson as an ex officio non-voting member of the ERCOT board;
- limit the conditions under which the ERCOT board could enter a closed executive session and authorize the board to exclude PUC commissioners from such sessions;
- require PUC to develop a communications plan;
- require PUC to allow public testimony on all agenda items at regular meetings;
- modify reporting requirements for PUC and ERCOT; and
- limit the duration of temporary manager appointments for certain utilities.

ERCOT oversight. CSHB 1500 would prohibit PUC from using verbal directives to direct ERCOT to take an official action, except in certain emergencies. PUC could direct ERCOT to take an official action only through:

- a contested case;
- rulemaking;
- a memorandum; or
- a written order.

PUC would be required to adopt rules that:

- specified the types of directives that could be issued through the non-verbal means listed above;
- established PUC voting requirements for issuing a directive;

- required opportunity for public comment on proposed directives at commission meetings; and
- established a reasonable timeline for the release of discussion materials on proposed directives before commission meetings.

The bill would authorize PUC to use a verbal directive to direct ERCOT to take an official action in an emergency that posed an imminent threat to public health, safety, or grid reliability. PUC would be required to provide written documentation of the directive within 72 hours after the emergency ended.

The bill would authorize PUC to approve, reject, or remand with suggested changes ERCOT protocols, including rules. ERCOT protocols and enforcement actions would be subject to PUC review and could not take effect without PUC approval.

CSHB 1500 would require two PUC members, one of whom must be the PUC presiding officer, to be included in ERCOT's governing body as an ex officio non-voting member. The additional member would be designated by the PUC presiding officer to serve a one-year term, successively and in order of seniority.

ERCOT closed meetings. CSHB 1500 would revise statute related to ERCOT board meetings to specify that the board or a subcommittee could enter into an executive session closed to the public only to address contracts, competitively sensitive information, the security of the regional electrical network, or a matter which PUC would be authorized to consider in a closed meeting under the Open Meetings Act. For purposes of entering into an executive session to address these matters, the bill would authorize ERCOT's board or a subcommittee to adopt a policy allowing them to exclude the public and PUC commissioners in specific circumstances. This policy would not be subject to PUC approval.

Communications plan. CSHB 1500 would require PUC to develop a plan for improving communications with the public, market participants, and other relevant audiences while also responding to changing communications needs. The plan would be required to include goals,

objectives, and metrics to assess PUC efforts, and be updated at least once every two years.

Public testimony at PUC meetings. CSHB 1500 would require PUC's policies to include public testimony as an agenda item for each regular commission meeting and allow the public to comment on each agenda item unrelated to a contested case and on any other matters under PUC jurisdiction. PUC would be authorized to prohibit public comment on a agenda item related to a contested case.

Reports. CSHB 1500 would require PUC, in consultation with ERCOT to prepare and submit to the Legislature an electric industry report by January 15th of each odd-numbered year. The report would be required to:

- identify existing and potential transmission and distribution constraints and system needs within the ERCOT region, and alternatives and recommendations for meeting system needs;
- summarize key findings from the Grid Reliability Assessment and the Long Term System Assessment Report;
- outline basic information on the electric grid and market in the state; and
- be presented in plain language readily understandable by a general audience.

CSHB 1500 also would require PUC and ERCOT to review annually any statutes, rules, protocols, and bylaws that applied to conflicts of interest for commissioners and board members and submit to the Legislature a report on the effects of those regulations on the ability of PUC and ERCOT to fulfill their duties.

The bill would consolidate certain currently required reports by including them in the requirements for PUC's biennial report on suggested improvements of the commission's statutory authority and for utility regulation in general. Certain other required reports would be repealed.

Water utility temporary manager appointments. CSHB 1500 would limit the term of a person appointed by emergency order to temporarily manage a water or sewer utility to 360 days. The emergency order could

be renewed for a single 360-day period, or, for a utility undergoing a sale, transfer, merger, consolidation, or acquisition, for a reasonable time until the transaction was complete.

The bill would include standard Sunset across-the-board provisions related to commission member training.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 1500 would improve transparency and clarity in PUC's direction of ERCOT and augment the commission's public communications efforts, while ensuring that ERCOT retained appropriate independence by allowing the board to restrict PUC commissioner presence at closed executive sessions for specific sensitive purposes.

ERCOT oversight. CSHB 1500 would ensure that PUC's direction of ERCOT adhered to best practices for openness and transparency by prohibiting the commission from using verbal directives except in emergencies, requiring opportunity for public input on all PUC directives to ERCOT, and prescribing the allowed forms for those directives to take place. The bill would clarify PUC's authority over ERCOT by specifying that the commission could not only approve but also reject or remand ERCOT protocols, bringing protocol oversight in line with PUC authority in other areas.

CSHB 1500 would ensure that PUC communication with and oversight of ERCOT did not depend solely on the commission chairperson by adding another commissioner as a non-voting member of the ERCOT board. Because the additional member would rotate in order of seniority, each commissioner would gain the experience of serving on the board. However, the bill also would ensure proper ERCOT independence by allowing the board to exclude both PUC commissioners from a closed meeting, particularly a meeting about a situation in which PUC potentially would have to pass judgment on ERCOT. The bill would make it clear that such closed meetings could only be held on specified, sensitive topics.

Because they cannot vote, PUC commissioners on ERCOT'S board do not unduly infringe on the organization's independence; instead, PUC presence on the ERCOT board facilitates communication and efficient coordination between PUC and ERCOT.

Public communications, participation. In the wake of the 2021 winter storm crisis, it is especially important for PUC to improve public communication in order to restore the trust of the public and state officials. CSHB 1500 would support such efforts by requiring the agency to develop and regularly update a comprehensive and strategic communications plan. The plan would help the agency make the best use of its limited resources and make agency operations more transparent.

The bill also would enhance meaningful public participation in PUC processes by requiring opportunity for public comment on all agenda items at each regular commission meeting. Public input is especially important for assessing the potential impacts of the significant changes PUC continues to make to ensure grid reliability following Winter Storm Uri. This requirement would not affect PUC's ability to limit the length of testimony to ensure meetings would not be unnecessarily prolonged.

CSHB 1500 also would help legislators and other audiences gain insight into the state's electricity market by requiring PUC and ERCOT to prepare a report that summarized in accessible language the information contained in other, more technical reports intended for an industry audience. The report would enable the Legislature to holistically consider any needed policy changes.

Water utility temporary manager appointments. CSHB 1500 would relieve strain on PUC's limited resources by clearly establishing the length of time allowed for temporary manager appointments for certain dysfunctional water and wastewater utilities. Currently the authority for such appointments is shared by PUC and TCEQ, but the agencies have differing interpretations of how long the appointments may last. Because TCEQ believes an appointment cannot last longer than a maximum of 360 days, there are cases in which PUC takes responsibility for the appointment in order to ensure that the utility's customer's continue to receive service. Establishing that an initial 360 day appointment could be

renewed for an additional 360 days would allow more affected utilities to be restored to functionality before being transferred to PUC, freeing agency resources for other purposes.

This change would not be intended to delay the process of restoring utilities to normal operations, but to ensure continued service to customers without unnecessarily burdening PUC and allowing sufficient time to find suitable operators to take over dysfunctional utilities.

CRITICS SAY:

ERCOT oversight. CSHB 1500 would inhibit PUC's authority over ERCOT by allowing the ERCOT board to exclude the PUC chairperson and commissioner members from certain board meetings. All PUC commissioners should be able to attend ERCOT board executive sessions in order to provide effective oversight.

Public communications, participation. PUC should not be required to allow public comment on all rules discussed in a regular commission meeting. Interested parties have ample opportunity to provide written comments on proposed rule changes when they appear as meeting agenda items; allowing these comments to be repeated verbally would be duplicative and could unnecessarily prolong meetings.

Water utility temporary manager appointments. The Legislature has taken specific actions in recent years to make it more feasible to return dysfunctional water and wastewater utilities to normal operations. By extending the duration of a temporary manager appointment, CSHB 1500 could allow unreasonable delays in this process.

OTHER CRITICS SAY:

CSHB 1500 should ensure the independence of ERCOT influence by removing all PUC commissioners from the ERCOT board, which would eliminate the need for the commissioners to be excused from ERCOT executive sessions and avoid the possibility of the commission having to recuse itself in an appeal. Having only one or some of the PUC commissioners serve on the board also could raise questions of preferential access and undue influence.

SUBJECT: Amending TWDB and continuing SWIFT Advisory Committee

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 6 ayes — T. King, E. Thompson, Kacal, Metcalf, Price, Rogers

0 nays

5 absent — Gámez, Kitzman, Lalani, Ramos, Zwiener

WITNESSES: For — Alex Ortiz, Sierra Club (*Registered, but did not testify*: Buddy Garcia, Brownsville Public Utilities Board; Tsion Amare, Environmental Defense Fund; Sarah Floerke Gouak, Lower Colorado River Authority; Marie Camino, Nature Conservancy Texas Chapter; Jeremy Mazur, Texas 2036; Rebecca Grande, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Billy Howe, Texas Farm Bureau; Sarah Kirkle, Texas Water Conservation Association; Wendy Herman, The City of Corpus Christi)

Against — Janice Bezanson, Texas Conservation Alliance, Preserve Northeast Texas

On — Darren McDivitt, Sunset Commission (*Registered, but did not testify*: Jeff Walker, Water Development Board)

BACKGROUND: Created with a constitutional amendment in 1957 following a severe drought, the Texas Water Development Board (TWDB) was originally tasked with issuing bonds for the conservation and development of Texas's water resources. TWDB'S mission is to ensure the water security for the future of Texas and its citizens.

Functions. Since its creation, TWDB'S duties have grown to include:

- water science and conservation research;
- water supply and flood mitigation planning;
- financial assistance for water, wastewater and flood projects in the form of loans and grants; and

- study, analysis, and publication of water-related data used by multiple groups and state agencies.

Governing structure. The board includes three full-time members who are appointed by the governor and serve staggered six-year terms. The board is required to have one member with engineering experience, one with finance experience, and one with either law or business experience. Members are prohibited from serving more than two terms.

Funding. In fiscal 2021, TWDB operated with a revenue of $46.3 million, while its expenditures for the same year totaled $46.3 million. The Legislature also appropriated $263 million to support the TWDB's ongoing debt service for general obligation water bonds. During fiscal 2021, TWDB committed nearly $1.8 billion in loans and grants to various water projects, as well as flood planning and research grants.

Staffing. In fiscal 2021, TWDB employed 359 full-time staff.

Although TWDB is not able to be abolished under the Sunset provision, the State Water Implementation Fund for Texas (SWIFT) Advisory Committee would be dissolved on September 1, 2023, if not continued.

DIGEST:

CSHB 1565 would require the Texas Water Development Board (TWDB) to be next reviewed during the 2034-2035 review cycle. The bill would continue the State Water Implementation Fund for Texas (SWIFT) Advisory Committee until September 1, 2035.

The bill would require each regional water planning group to submit to the development board a regional water plan that included information on the implementation of large projects, such as reservoirs, interstate water transfers, innovative technology projects, and desalination plants. Such plans would include information on expenditures of sponsor money, permit applications, and status updates on the phase of construction of a project. A regional water planning group could plan for drought conditions that were worse than the drought of record when developing a regional water plan.

The bill would require TWDB to develop and implement performance goals and metrics as part of a comprehensive evaluation of the board's review of proposed projects for compliance with programmatic and design requirements. TWDB would be required periodically to collect data on performance metrics, analyze the data to identify relevant trends, and use the performance metrics to assess the board's progress toward meeting performance goals. TWDB would be required periodically to review performance goals and metrics to assess the effectiveness and efficiency of the board's review of proposed projects. The executive administrator periodically would have to update TWDB on the implementation and analysis of the performance metrics and progress toward performance goals. TWDB would develop and implement periodic reporting schedules for all performance goals and metrics.

TWDB could adopt procedures permitting the use of different standards of review and approval of design criteria for plans and specifications for sewage collection, treatment, and disposal systems. The rules for such procedures would require an individualized assessment that applied risk-based considerations to each project associated with the plans' specifications. These considerations would include any potential financial risk, any risk to public health, or other relevant financial considerations associated with the projects. For such plans and specifications, TWDB would require the professional engineer who submitted the plans and specifications to make a finding that they were in substantial compliance with standards established by the Texas Commission on Environmental Quality (TCEQ) and that any deviation from TCEQ standards was based on the best professional judgment of the engineer.

The bill would eliminate the requirements for TWDB to make certain reports on the Water Loan Assistance Program, the Water Bond Insurance Program, and the Storage Acquisition Fund.

The bill would include standard Sunset across-the-board provisions related to commission member training.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 1565 would make necessary changes and updates to the Texas Water Development Board and would continue the SWIFT Advisory Committee. The importance of water issues in Texas and the amount of money invested in SWIFT requires continued oversight, while not entailing a large time commitment for the committee members. The advisory committee has shown its value to TWDB since its founding in 2013, with both formal and informal recommendations, and there is still a substantive need for it going forward.

The bill would require TWDB to establish performance metrics and goals that could help TWDB identify problems in its project review process and make informed decisions on resource allocation and program operations.

CSHB 1565 would allow TWDB to conduct risk-based project reviews and develop rules based on risk to the public and TWDB's financial standing. This would benefit TWDB in providing appropriate customer service to higher risk projects while also minimizing review time. The bill also would make it easier for regional water planning groups to plan for severe droughts by allowing them to consider drought conditions worse than the drought of record when developing a regional water plan.

TWDB's reporting responsibilities would be streamlined by abolishing the requirements for the board to report on the Water Loan Assistance Program, Water Bond Insurance Program, and Storage Acquisition Fund. This could reduce the overall workload of TWDB while maintaining the requirements for the six other reports, which remain necessary for the oversight of the board's various plans and projects.

CRITICS SAY:

CSHB 1565 should allow the SWIFT Advisory Committee to expire. Early in its existence the advisory committee provided significant guidance and feedback on the operation, function, and structure of SWIFT, but it is no longer necessary. The advisory committee has not provided any formal, written recommendations regarding SWIFT since 2014, and its members generally have given informal, verbal comments to TWDB. Such comments could be made without the need for the advisory committee. Also, there is already sufficient oversight for TWDB and SWIFT through the appropriations process, the State Auditor's Office, the

House Natural Resources Committee, and the Senate Water, Agriculture, and Rural Affairs Committee.

OTHER CRITICS SAY:

CSHB 1565 would help to make many positive changes for the state, but should remove the Marvin Nichols Reservoir project from the state water plan. The project would cost $5 billion and could ultimately be harmful to the Dallas-Fort Worth area counties that it was originally intended to help.

SUBJECT: Preempting certain municipal and county regulation

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Hunter, Dean, Geren, Metcalf, Raymond, Slawson, Smithee, Spiller

3 nays — Hernandez, Anchía, Turner

2 absent — Guillen, S. Thompson

WITNESSES: For — Chris Maberry, Airlines for America; Mark Roach, Associated Builders and Contractors of Texas; Skeeter Miller, County Line Restaurants; Alex Eagle, Freebirds World Burrito; Stephen Scurlock, Independent Bankers Association of Texas; Robert Mayfield, Mayfield DQ; Annie Spilman, NFIB; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; Mont McClendon, Texas Apartment Association; Donnie Evans, Scott Norman, Texas Association of Builders; Glenn Hamer, Texas Association of Business; Rod Bordelon, Texas Public Policy Foundation; Kelsey Streufert, Texas Restaurant Association; Tom Kenney, WFK Restaurant Group, DBA Napa Flats; Lisa Fullerton; Anthony Stergio (*Registered, but did not testify*: Corbin Van Arsdale, AGC-Texas Building Branch; Genevieve Collins, Samuel Sheetz, Americans for Prosperity; Caroline Messer, AT&T; Adam Aschmann, Greater Houston Builders Association; Buddy Garcia, Holcim; Regan Ellmer, Independent Insurance Agents of Texas; Jay Propes, Mercury Public Affairs; Brent Franks, North Texas Automobile Dealers; Travis McCormick, Panhandle Producers and Royalty Owners Association; Michael D. Lozano, Permian Basin Petroleum Association; Alina Carnahan, Real Estate Council of Austin; Charles Maley, South Texans' Property Rights Association; Jared Bryan, Temple Area Association of Builders; Tim Hardin, Texans for Fiscal Responsibility; Doug Deason, Justin Keener, Texans for Free Enterprise; Melissa Hamilton, Texas & Southwestern Cattle Raisers Association; Michael Grimes, Texas Aggregate and Concrete Association; J.D. Hale, Texas Association of Builders; Kyle Bush, Texas Association of Manufacturers; Kelly Hudson, Texas Association of Staffing; Robert Braziel, Texas Automobile Dealers

Association; Josh Winegarner, Texas Cattle Feeders Association; Chris Noonan, Texas Chemical Council; Drew DeBerry, Texas City Limits Coalition; Jennifer Fagan, Texas Construction Association; Gilianne Carter, Texas Credit Union Association; Charlie Leal, Texas Farm Bureau; Desiree Castro, Texas Food and Fuel Association; Garrett Coppedge, Texas Hotel and Lodging Association; Jeff Martin, Texas Independent Auto Dealers Assn.; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; John Fleming, Texas Mortgage Bankers Association; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Shana Joyce, Texas Oil & Gas Association; Lance Lively, Texas Package Stores Association; Seth Juergens, Texas REALTORS; Daniel Hodge, Texas Restaurant Association; John McCord, Texas Retailers Association; Ron Hinkle, Texas Travel Alliance; Rick Donley, The Beer Alliance of Texas; Jorge Martinez, The LIBRE Initiative; Frank Fuentes, US Hispanic Contractors Association; Tom Spilman, Wholesale Beer Distributors of Texas; Joey Bennett, Wine and Spirits Wholesalers of Texas; John Beckmeyer)

Against — Tim Morstad, AARP; Lauren Johnson, ACLU of Texas; Joseph Bowie, Beard Integrated Systems; Jefrey Thompson, Central Texas Interfaith; Laura Morrison, City of Dallas; Jeff Coyle, City of San Antonio; Adam Haynes, Conference of Urban Counties; David Stout, El Paso County; Luis Figueroa, Every Texan; Ben Brenneman, International Brotherhood of Electrical Workers Local 520; Cyrus Reed, Lone Star Chapter Sierra Club; Collyn Peddie, Mayor’s Office, City of Houston; Alex Birnel, MOVE Texas; Patrick Brophey, North Texas Commission; Amos Humphries, Park Lake Drive Baptist; Adrian Shelley, Public Citizen; Rick Levy, Texas AFL-CIO; Ann Baddour, Texas Appleseed; John Litzler, Texas Baptist Christian Life Commission; Jenny Andrews, Texas Catholic Conference of Bishops; Bennett Sandlin, Texas Municipal League; David Chincanchan, Daniela Hernandez, Workers Defense Action Fund; and 7 individuals (*Registered, but did not testify*: Joe Hamill, AFSCME Local 123 Houston, Local 2021 San Antonio, Local 1624 Austin/Travis County, Local 1550 Harris County; Selena Xie, Austin EMS Association; Gary Pedigo, Brotherhood of Locomotive Engineers and Trainmen; Brie Franco, City of Austin; Thomas Reeves, City of Baytown; Wendy Herman, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; Brian England, City of Garland; Josh Schroeder,

City of Georgetown; Angela Hale, City of McKinney, McKinney Chamber of Commerce, Texas Competes Action; Andrew Fortune, City of Plano City Council; Claudia Russell, City of San Marcos; Trisha Dang, City of Sugar Land; Rebekah Chenelle, Dallas County Commissioners Court; Elisa M. Tamayo, El Paso County; Tsion Amare, Environmental Defense Fund; Jason Sabo, Environment Texas; Ricardo Martinez, EQTX Equality Texas; Joseph Hernandez, Ryan Pollock, IBEW Local 520; Kathy Mitchell, Just Liberty; Carol Olewin, League of Women Voters of Texas; Joe Cooper, Local 286 Plumbers and Pipefitters; Bill Kelly, Mayor's Office, City of Houston; Blaire Parker, San Antonio Water System; Phil Bunker, Teamsters JC 58; Thomas Kennedy, Texas Building and Construction Trades; Dwight Harris, Texas Federation of Teachers; Carisa Lopez, Texas Freedom Network; Joshua Houston, Texas Impact; Tyler Sheldon, Texas State Employees Union; Portia Bosse, Texas State Teachers Association; Laura Atlas Kravitz, Texas Women's Foundation; Landon Richie, Transgender Education Network of Texas; Julie Wheeler, Travis County Commissioners Court; Nicole Ma, Sarah Syed, Steven Wu, Woori Juntos; and 28 individuals)

DIGEST:

CSHB 2127, the Texas Regulatory Consistency Act, would prohibit a municipality or county from adopting, enforcing, or maintaining an ordinance, order, or rule regulating conduct in a field of regulation occupied by a provision of certain statutory codes unless the municipal or county regulation was expressly authorized by another statute. The prohibition would apply to the following codes:

- Agriculture
- Business & Commerce
- Finance
- Insurance
- Labor
- Natural Resources
- Occupations
- Property

The bill would specify that for the prohibition under the Labor Code, an occupied field would include employment leave, hiring practices, breaks, benefits, scheduling practices, and any other terms of employment that

exceeded or conflicted with federal or state law for employers other than a municipality or county.

A municipality or county could enforce or maintain any ordinance, order, or rule regulating any conduct related to credit service organizations and credit access businesses, if the regulation had been adopted before January 1, 2023, and would have been valid under the law as it existed before the bill's enactment.

CSHB 2127 would prohibit a municipality from adopting, enforcing, or maintaining an ordinance or rule that restricted, regulated, limited, or otherwise impeded a business involving the breeding, care, treatment, or sale of animals or animal products, including a veterinary practice, or the business's transactions if the operator held a license for the business issued by the federal government or a state.

Liability. CSHB 2127 would authorize any person who had sustained an injury in fact, actual or threatened, from a municipal or county regulation in violation of the provisions above to bring an action against the municipality, county, or an official who adopted or enforced the regulation. A trade association representing the person also could bring such an action. The claimant could recover declaratory and injunctive relief along with costs and reasonable attorney's fees. Governmental immunity of a municipality or county would be waived to the extent of liability created by the bill, and official and qualified immunity could not be asserted as a defense.

A claimant could bring the action in:

- the county in which all or a substantial part of the events giving rise to the cause of action occurred;
- if the defendant was a municipality or municipal official, the county in which the municipality was located or a contiguous county;
- if the defendant was a county or county official, a contiguous county.

An action could not be transferred to a different venue without the written consent of all parties.

A municipality or county would be entitled to receive notice of a claim against at least three months before a claimant filed an action.

Other provisions. CSHB 2127 would amend the Local Government Code to specify that a municipality could adopt, enforce, or maintain an ordinance or rule only if it was consistent with the laws of the state.

CSHB 2127 would specify that the bill could not be construed to prohibit:

- a municipality or county from building or maintaining a road, imposing a tax, or carrying out any authority expressly allowed by statute; or
- a home rule municipality from providing the same services and imposing the same regulations authorized for general-law municipalities.

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 2127 would provide regulatory consistency and promote prosperity in Texas by preempting local government regulation in areas already regulated by the state. Local ordinances related to labor and employment practices, environmental regulation, and other topics have created a confusing and complex patchwork of requirements that can vary widely. This lack of consistency is especially burdensome for businesses that operate in multiple jurisdictions and must navigate compliance with potentially contradictory regulatory schemes. These regulations can impede economic growth and job creation, especially for small businesses. CSHB 2127 would reassert the state's proper role as the sole regulator of commerce and trade within its jurisdiction and provide a more stable, uniform, and predictable regulatory environment in which business could grow and expand across multiple local jurisdictions. The bill would

foster a more business-friendly environment, positioning Texas to take advantage of renewed interest in domestic manufacturing.

While local control is justified in certain circumstances, the intent of the state's constitution in granting home rule status to cities was not to allow them complete autonomy. Cities have begun to regulate far beyond the bounds of their historical roles; CSHB 2127 would provide clarity about the proper scope of local governments' authority and free them to direct resources to the traditional issues that they are equipped to address. Many areas of local authority would not be affected by the bill, including zoning, noise and nuisance ordinances, safety protections, and other powers expressly granted by state law. The bill also would encourage the state to better address areas in which more regulation was needed.

CSHB 2127 necessarily would cover a wide range of regulatory areas as it is not feasible or financially responsible for the Legislature to individually address each harmful local regulation once every two years. The bill is intended to be a living document interpreted based on case law, not to provide prescriptive specificity for every possible regulatory issue.

Many concerns about the bill's effect on specific protective local measures are misplaced. The bill would allow existing local ordinances regulating payday and auto title lending and credit access businesses to remain in force. If more work was needed on this issue, advocates could pursue change at the state level. The bill would not eliminate protections for workers because labor standards, including mandated rest breaks, are strongly enforced at the federal level by OSHA. There are also federal protections against anti-LGBT discrimination in employment and housing, and local governments are expressly authorized to prohibit employment discrimination by the state Labor Code.

CSHB 2127 would empower businesses and individuals whose interests were adversely affected by a regulation that conflicted with state law to take legal action against a local government or official and receive declaratory and injunctive relief and recover legal costs. The bill would also allow trade associations to bring an action on behalf of a member so that the business or individual could receive relief without fear of reprisal. The bill would not encourage excessive or frivolous litigation because it

would require advance notice of a claim that a person had been harmed by a regulation in violation of state law, which would give the local government the opportunity to cure the violation. The bill would not create a financial incentive for lawsuits since a claimant could not receive compensatory relief, only recover costs and receive declaratory or injunctive relief. The goal of the bill's cause of action is not to incentivize litigation but to provide a concrete enforcement mechanism.

CRITICS SAY:

CSHB 2127's broad preemptions would inhibit local governments' ability to protect their citizens' interests and well-being and pursue innovative and responsive policies tailored to diverse local needs. The bill would undermine the long-standing tradition of local control and home-rule in Texas. Local elected officials are best situated to understand the policies their communities need and want. Local government is more immediately accessible and accountable to individual voters than the state Legislature, which can only enact policy every two years. If voters are opposed to local regulations, they can petition to change them or elect new officials.

Texas is large and diverse, and the regulatory policies of one community or region are not necessarily appropriate for another. Although CSHB 2127 seeks consistency, it could create unnecessary confusion and complication as local governments tried to determine which ordinances they could or couldn't enforce, uncertainty which would be harmful for businesses.

The bill is overly broad and could have unintended consequences, as the state is not equipped to replace the many local services and functions that would be preempted. Additionally, the lack of specificity of the bill's applicability could have the potential to stem local action, even on responsibilities within cities' authorized purview, for fear of litigation. If local governments were to overstep their proper authority, the state should craft specific laws with clear applicability to correct the problem.

Many local efforts to protect vulnerable community members, including regulations and initiatives related to public health and safety, affordable housing, and poverty alleviation could be undermined by the bill's preemptions. Although the bill contains an exemption for local ordinances aimed at curbing predatory lending by credit access businesses, it would

not allow cities without similar ordinances to pass them, and would prevent existing ordinances from being updated to effectively address the evolution of predatory lending entities. The bill also could eliminate local requirements intended to ensure fair and humane working conditions, such as mandated rest and water breaks for construction workers. Local anti-discrimination ordinances that protect the LGBT community in employment and housing access could also be threatened.

By waiving local governments' liability immunity, the bill's private cause of action could incentivize excessive and costly litigation. The cost of such lawsuits would impose a significant financial burden on city and county resources, which would ultimately pass to taxpayers.

SUBJECT: Authorizing local option homestead exemptions for certain physicians

COMMITTEE: Ways & Means — favorable, without amendment

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

0 nays

2 absent — Thierry, Button

WITNESSES: For — (*Registered, but did not testify*: Kevin Hale, Libertarian Party of Texas)

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

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

BACKGROUND: Texas Constitution Art. 8, sec. 1 requires 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.

Texas Constitution Art. 8, sec. 1(d) exempts $3,000 dollars of the assessed taxable value of all residence homesteads from all taxation for state purposes.

DIGEST: HJR 45 would amend the Texas Constitution to allow a county commissioners court to exempt from county property taxation up to 50 percent of the assessed value of the residence homestead for certain physicians. The exemption would apply to the residence homestead of licensed physicians who provided health care services for which the physician did not seek payment from any source, including Medicaid or other state or federal program, to county residents who were indigent or Medicaid recipients.

The exemption would be in addition to other residence homestead exemptions provided by the Texas Constitution. The Legislature by

general law could establish additional eligibility requirements for the exemption.

If the property tax was previously pledged for payment of a county debt and granting the exemption would impair the county's ability to fulfill the debt obligation, the county could continue to levy and collect the tax against the value of the property until the debt was paid.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment authorizing a local option exemption from ad valorem taxation by a county of a portion of the value of the residence homestead of a physician who provides health care services for which the physician agrees not to seek payment from any source, including the Medicaid program or otherwise from this state or the federal government, to county residents who are indigent or who are Medicaid recipients."

SUPPORTERS SAY:

HJR 45 and its enabling legislation HB 596 would allow counties to establish an incentive for physicians to provide indigent care in their communities. The number of physicians providing indigent care has decreased throughout the state as many physicians become increasingly concerned with burdensome Medicaid regulations and other public health restrictions. Providing a property tax exemption for physicians that choose to treat indigent patients at no cost could provide the incentive necessary to entice new physicians into underserved areas and encourage those in the area to accept new indigent patients.

CRITICS SAY:

No concerns identified.

NOTES:

The enabling language for HJR 45 is HB 596, which is also on the calendar for second reading consideration today.

According to the Legislative Budget Board (LBB), the proposed constitutional amendment would have no cost to the state other than the cost of publication, which would be $204,406.

The LBB also states that the proposed constitutional amendment would create a cost to counties that chose to grant the partial residence homestead exemption.

SUBJECT: Creating a Texas state buildings preservation endowment fund

COMMITTEE: Culture, Recreation & Tourism — committee substitute recommended

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

0 nays

2 absent — Collier, Garcia

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Rod Welsh, State Preservation Board)

BACKGROUND: The Texas State Preservation Board (TSPB) is responsible for preserving, maintaining, and restoring the Texas State Capitol, the Governor's Mansion, the Texas State Cemetery, and the Bob Bullock Texas State History Museum.

The Texas Treasury Safekeeping Trust Company is responsible for managing and investing funds for the state with the goal of preserving and growing the state's financial resources.

Under Government Code sec. 2056.002, a state agency is required each even-numbered year to issue a five-year strategic plan for its operations and send the plan to the governor, the lieutenant governor, the speaker of the House, the Legislative Budget Board, and the state auditor.

The State Funds Reform Act requires a state agency to deposit all funds it receives in the state treasury.

DIGEST: CSHB 3050 would consolidate the capital renewal trust fund, Governor’s Mansion renewal trust fund, and State Cemetery preservation trust fund into the Texas state buildings preservation endowment (TSBPE) fund. The

purpose of the fund would be to maintain, preserve, rehabilitate, and restore the state buildings and grounds over which the Texas State Preservation Board (TSPB) had jurisdiction. The fund would be exempt from the State Funds Reform Act. The fund would consist of:

- money transferred or appropriated to the fund by the Legislature, including money transferred from the three consolidated funds;
- gifts, grants, or donations contributed to the fund; and
- returns on investments in the fund.

The Texas Treasury Safekeeping Trust Company would hold, manage, and invest the fund, and would distribute money from the fund in accordance with a distribution policy adopted by the comptroller. The distribution policy would be required to:

- be designed to preserve the purchasing power of the assets of the fund;
- provide a stable and predictable series of annual distributions from the fund; and
- meet the liquidity needs of the fund as necessary.

The trust company could acquire, manage, exchange, sell, supervise, or retain any investments for the fund that a prudent, reasonable investor would acquire, taking into consideration all assets in the fund. TSPB would be required to fulfill a request from the trust company for any information necessary to ensure that the trust company achieved its objectives.

TSPB could request that money be distributed from the fund once per year. The request amount could not exceed the amount the trust company determined was available for distribution that year. The bill would add the rehabilitation and restoration of buildings over which TSPB had jurisdiction to the purposes for which funds could be used. TSPB would be required to allocate at least one third of each annual distribution to projects at the Bob Bullock Texas State History Museum, excluding funds transferred from the three consolidated funds. TSPB could not use money received from an annual distribution to pay salaries, employee benefits, or

any administration, operating, or program costs belonging to TSPB or the buildings and grounds over which TSPB had jurisdiction. With written approval from the Legislative Budget Board, TSPB would be allowed to use money received from an annual distribution to acquire land close to the State Cemetery for its expansion.

TSPB could request more money than the maximum amount determined by the trust company once per year. The trust company could only fulfill this request if it did not violate the comptroller's distribution policy. TSPB could only receive an additional distribution from the fund after TSPB certified to the LBB that it had reviewed and approved the use of the money, all purchases made with the money would be in line with state procurement and contracting laws, and the money would not be used to:

- pay salaries, employee benefits, or any administration, operating, or program costs belonging to TSPB or the buildings and grounds over which TSPB had jurisdiction;
- procure new historic sites or real property, except for State Cemetery expansion purposes; or
- buy capital equipment unrelated to the rehabilitation or restoration of a building or grounds.

In its biennial strategic plan, TSPB would be required to include a report on each project that received money from the fund during the two years prior to the date on which the plan was submitted, including a list of each project TSPB anticipated would be funded using money in the fund over the next five fiscal years. All expenditures by TSPB from the fund would be subject to audit by the state auditor.

CSHB 3050 would immediately remove from statute and abolish the capital renewal trust fund and would remove from statute and abolish the Governor's Mansion renewal trust fund and the State Cemetery preservation trust fund on September 1, 2024, with any remaining money from the funds being transferred to the comptroller for deposit in the endowment fund.

This bill would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 3050 would help ensure that long-term funding was available to assist the Texas State Preservation Board in maintaining our state buildings and grounds. TSPB has encountered difficulty securing adequate funding in the past, and this bill would help provide an ongoing stream of revenue for maintenance funding.

CRITICS SAY:

No concerns identified.

SUBJECT: Expanding the use of water from the Edwards Aquifer to additional areas

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — T. King, E. Thompson, Gámez, Kacal, Lalani, Metcalf, Price, Rogers

0 nays

3 absent — Kitzman, Ramos, Zwiener

WITNESSES: For — John Littlefield, County Line Special Utility District; Marc Friberg, Roland Ruiz, Edwards Aquifer Authority (*Registered, but did not testify*: Graham Moore, Alliance Regional Water Association)

Against — None

DIGEST: CSHB 1646 would expand the geographic area in which water withdrawn from the Edwards Aquifer could be used. The bill would allow water withdrawn from the aquifer to be used within the geographic area of a certificate of convenience and necessity, any part of which was located within the boundaries of the Edwards Aquifer Authority (EAA) established on June 28, 1996. The bill would take effect September 1, 2023.

SUPPORTERS SAY: By allowing certain additional areas to use water from the Edwards Aquifer, CSHB 1646 could reduce the need for water providers to implement costly and unreasonable reengineering of their infrastructure to separate aquifer water from other water sources. The bill also would ensure that some areas located outside the boundaries of the EAA's jurisdiction could continue to be serviced by the Edwards Aquifer. CSHB 1646 would not allow additional aquifer water extraction.

CRITICS SAY: No concerns identified.

SUBJECT: Applying court limitations periods to arbitration proceedings.

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; George Christian, Texas Civil Justice League; Laura Tamez, Texas Trial Lawyers Association; Ware Wendell, Texas Watch; John Fleming; Chnequa Kirby Harrison)

Against — None

DIGEST: HB 1255 would prohibit a party from bringing a claim to arbitration if the applicable limitations period for the claim had expired. The bill would create an exception to this provision if:

- the party brought the claim to court before the applicable limitations had expired; and
- the parties to the claim agreed to arbitrate the claim or a court ordered the parties to arbitrate the claim.

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 1255 would provide better clarity on how statutes of limitations applied to arbitration proceedings. A lack of clarity in the law has led to inconsistency in the judicial system, with some courts dismissing attempts to transfer cases from a court to arbitration following the expiration of the limitations period. HB 1255 would provide courts with more certainty as to which exceptions applied.

CRITICS SAY:

No concerns identified.

SUBJECT: Establishing the workforce housing capital investment fund

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 6 ayes — Lozano, Bernal, Cortez, Cunningham, J. González, Hayes

2 nays — Gates, Tepper

1 absent — Romero

WITNESSES: For — Cristen Incitti, Habitat for Humanity of Minnesota; Melissa Alexander, Habitat for Humanity SBC; Amy Parham, Habitat for Humanity Texas; (*Registered, but did not testify*: Craig Chick, Habitat for Humanity Texas; Paul Sugg, Harris County Commissioners Court; Bill Kelly, Mayor's Office, City of Houston; Joy Horak-Brown & Katie Stewart-Anchondo, New Hope Housing; Ja'net Huling, TAAHP; Ben Stratmann, Texans for Reasonable Solutions; Roger Arriaga, Texas Affiliation of Affordable Housing Providers; David Mintz, Texas Apartment Association; J.D. Hale & Scott Norman, Texas Association of Builders; Emily Eby French, Texas Civil Rights Project; Seth Juergens, Texas REALTORS; Kelsey Streufert, Texas Restaurant Association; Cynthia Van Maanen, Travis County Democratic Party; Ashley Harris, United Ways of Texas; 16 individuals)

Against — (*Registered, but did not testify*: Henry Bohnert)

On — Clarisse Roquemore, Texas Comptroller of Public Accounts

DIGEST: CSHB 1704 would establish the workforce housing capital investment fund as a special fund in the state treasury outside the general revenue fund, consisting of:

- gifts, grants, and donations;
- legislative appropriations;
- any fees dedicated to be deposited in the fund;
- repayment of loans made from the fund; and
- interest earned on money deposited.

The loans provided by this program would be interest free.

Program administration. The Department of Housing and Community Affairs would contract with a nonprofit housing organization through a one-time competitive procurement process to administer the program. The nonprofit would be required to have:

- had a statewide service area with organizational affiliates;
- provided to other nonprofits training and technical support;
- built single family residential homes;
- provided financial literacy education to low-income home buyers; and
- worked with homebuyers who contributed to the construction of their home or rehabilitation of another's home, including as a nonprofit owner-builder program provider with at least 15 years of experience.

Use of funds. The department would provide money from the fund to the program administrator to disburse zero interest loans to participants. Money provided from the fund could be used only for costs associated with the development and construction of single-family workforce housing projects primarily for households that earned between 30 and 80 percent of the area median income.

Interest earned on money deposited in the fund could be used for program staffing, other administrative costs, and training programs associated with the program.

Application requirements. A nonprofit applicant would be required to be:

- organized for the purpose of building homes for households that earn 30-80 percent of the area median income and have done so for 15 years; and
- experienced in providing training and technical support, resource development, mortgage services, and disaster preparedness and response resources that expand the applicant's capacity to serve communities in this state.

Applicants would be reviewed on their ability to perform the duties laid out in the bill, and priority could be given to applicants who partnered with organizations that provided training opportunities to construction trade workforce members. Applicants could be required to pay an origination fee on a loan application.

Annual report. The program administrator would be required to submit an annual report to the department, which would include:

- information on program recipients that received a loan during the preceding year;
- description of the workforce housing project, including its expected completion date and the progress made in the preceding year, the number of families expected to be served, and total amount and repayment status of the loan; and
- other information requested by the department.

The annual report would be posted on the department's website.

Audit. The program administrator would annually commission an independent audit of the program's activities by a certified public accounting firm, and would provide the results to the department. If the department determined from the audit that money had not been used in accordance with the provisions of the bill, the department could require the repayment of the money.

Rules. The department would be required to adopt rules on application procedures and requirements for applicants to receive a loan, investment of money in the fund, and administration of the fund.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 1704 would help to ease Texas's housing crisis while also providing much-needed workforce training. Demand for low-income housing continues to rise and CSHB 1704 would provide a funding mechanism to build this type of housing. The fund would only require a one-time investment from the state and would become self-sufficient through loan repayments and donations.

The program established by the bill would uniquely focus on households making between 30 and 80 percent of the median area income, providing these individuals with the benefits of affordable housing, such as greater stability and the ability to be more engaged in their communities. By incorporating financial literacy and workforce training into the program, the bill could help ensure that recipients stayed financially stable and gained access to new employment opportunities in construction. Texas

needs more skilled construction workers, and CSHB 1704 could help address this need.

CRITICS SAY:

CSHB 1704 could create a lack of accountability by providing zero interest loans. Zero interest loans could disincentivize the loans from being paid back, which could affect the liquidity of the fund over time.

SUBJECT: Revising housing authority pet ownership restrictions on dangerous dogs

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — Neave Criado, Stucky, Gerdes, Orr, Rosenthal, Schatzline

3 nays — Jones, Slaton, Tinderholt

WITNESSES: For — Eric Swafford, Best Friends Animal Society; Kasey Spain (*Registered, but did not testify*: Clifford Sparks, City of Dallas; Nadia Islam, City of San Antonio; Alex Gamez, Humane Society; Bill Kelly, Mayor's Office, City of Houston; Laura Matz, Texas Community Association Advocates; Thomas Parkinson)

Against — Bob Kafka, ADAPT; Nancy Lange, Tiffany Middleton, HACA; Mary Apostolou, Veronica Castillo-Perez, Leilani Lim-Villegas, Myra Rubalcava, Housing Authority of the City of Austin; Michael Roth, NAHRO; (*Registered, but did not testify*: Flora Montelongo, Housing Authority of the City of Austin)

On — Randy Turner

BACKGROUND: Health and Safety Code Sec. 822.047 authorizes counties or municipalities to place additional restrictions on dangerous dogs if those restrictions are not specific to one breed or several breeds of dogs.

DIGEST: HB 1159 would require a housing authority policy permitting ownership of a pet to comply with applicable county or municipal restrictions on dangerous dogs imposed under Health and Safety Code Sec. 822.047.

SUPPORTERS SAY: HB 1159 would bring Public Housing Authority (PHA) tenant pet ownership policies in alignment with state law and local regulations. Many PHAs currently have restrictions based on breed in their pet ownership policies despite there being little evidence that certain breeds are more dangerous than others. PHAs are funded with taxpayer dollars and should not be able to impose more restrictions than a county or municipality. Under the bill, PHAs could still impose dangerous dog

restrictions based on weight or size or any other restriction that did not discriminate against certain breeds to protect its residents.

HB 1159 also could reduce the number of animals in shelters, as housing barriers related to pet restrictions is a primary reason many pets are surrendered by their owners.

CRITICS SAY:

HB 1159 would impose unreasonable restrictions on PHAs' ability to set pet policies for their properties. Not allowing PHAs to properly regulate pets could endanger their residents and result in property damage. PHA residents are low-income households and many residents are disabled or elderly, making a dog attack more dangerous. Certain breeds may be considered more aggressive or frightening than others, and residents deserve to feel and be safe in their communities. Residents often help to create the pet policies for their communities and should be allowed to continue doing so.

SUBJECT: Allowing electric vehicle charging equipment placement on state property

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Hunter, Hernandez, Anchía, Dean, Geren, Metcalf, Raymond, Slawson, Spiller, S. Thompson, Turner

0 nays

2 absent — Guillen, Smithee

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club (*Registered, but did not testify*: Jason Sabo, Environment Texas; Bill Kelly, Mayor's Office, City of Houston; Matthew Bentley, Texas Electric Transportation Resources Alliance; Gentry McLean)

Against — (*Registered, but did not testify*: Henry Bohnert)

DIGEST: HB 821 would authorize a state agency in charge and control of state property, including a state park, to enter into an agreement authorizing a charging provider to place and maintain electric vehicle charging equipment on the property. The agreement would have to require the provider to use a metering device to determine the cost of electricity transferred through the equipment.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 821 would help to facilitate increased tourism in Texas, especially in state parks, by allowing state agencies to partner with private entities to place and maintain electric vehicle charging equipment on public property.

CRITICS SAY: No concerns identified.

SUBJECT: Creating a mediation program for certain vehicle towing disputes

COMMITTEE: Licensing & Administrative Procedures — committee substitute recommended

VOTE: 9 ayes — K. King, Walle, Goldman, Harless, Hernandez, T. King, Patterson, Shaheen, S. Thompson

0 nays

2 absent — Herrero, Schaefer

WITNESSES: For — Todd Johnston, Jeanette Rash, LouAnn Wagner, Texas Towing and Storage Association; Dana Moore, Texas Trucking Association

Against — James Bennett Jr., Beards Towing, Southwest Tow Operators; Jason Ward, Collin County VSF; Geoff Nirenstedt, Southwest Tow Operators; David Walters (*Registered, but did not testify*: Mike Phillips, All American Towing; James Bennett, Chloe Borden, Brendan Borden, Katelyn Dunn, Keith Yancey, Beards Towing; Gary Hoffman, Classic Towing & Recovery; Jonathan Cleaver, Commercial Towing Services LLC; James Lindgren, Gritten Wrecker Service; Marcus Arvie, Curtis Jordan, Jordan Towing; William Rice, Lindy Lott Wrecker; Mark Denson, On Site Towing; RoadSync Inc, RoadSync; Joel Allen, Susan Allen, Tommy Anderson, Fidel Cortez, David Escalara, Barbara Perales, James Peterson, Charles Sizemore, Tasha Mora, Timothy Ward, Southwest Tow Operators; Linda Lindgren, Tow King; Julie Short; Stoney Short; Brian Walters)

On — (*Registered, but did not testify*: Steve Bruno, Texas Department of Licensing and Regulation)

BACKGROUND: Under Transportation Code sec. 643.001, "motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway.

Under Occupations Code sec. 2303.154, if a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the notice is mailed or published, the operator of the vehicle storage facility must consider the vehicle to be abandoned. If required by the law enforcement agency where the vehicle is located, the operator of the vehicle storage facility must report the abandonment to the law enforcement agency. If the law enforcement agency notifies the vehicle storage facility to dispose of the abandoned vehicle, the vehicle storage facility must pay a fee.

Under Transportation Code sec. 683.031, a motor vehicle is abandoned if the vehicle is left in a storage facility operated for commercial purposes for 10 days after the date which:

- the garagekeeper gives notice to the last known registered owner of the vehicle and to each lienholder of record of the vehicle to remove the vehicle;
- a contract for the vehicle to remain on the premises of the facility expires; or
- the vehicle was left in the facility, if the vehicle was left by a person other than the registered owner or a person authorized to have possession of the vehicle under a contract of use, service, storage, or repair.

DIGEST:

CSHB 3478 would allow motor carriers to request mediation against a towing company under certain conditions and would revise certain provisions regarding the storage of the vehicle in question.

CSHB 3478 would allow a motor carrier to request mediation in a dispute with a towing company regarding a tow for which towing and recovery fees exceeded $20,000. The towing company would be required to participate in the requested mediation.

CSHB 3478 would provide exceptions to Occupations Code sec. 2303.154 and Transportation Code sec. 683.031, establishing that a motor vehicle held in a vehicle storage facility by a motor carrier would not be considered abandoned until 31 days after the notice was mailed or published or if the operator of the vehicle storage facility received notice that the vehicle was the subject of a mediation or a request for civil action.

A motor carrier could request mediation no later than 30 days after either the motor carrier paid the towing and recovery charges or received notice to consider a vehicle abandoned, whichever date came later.

Upon receiving a request for mediation, the Texas Department of Licensing and Regulation (TDLR) would be required to notify the towing company and the vehicle storage facility operator storing the vehicle in question and order both parties' participation in mediation. The bill would require mediation to be completed within 30 days of the date TDLR ordered participation unless all parties agreed to extend the deadline.

In a mediation, under Texas Rules of Evidence, the parties would be required to evaluate, without limitation, whether the amount charged by the towing company was excessive. If the parties determined that the amount was excessive, the parties would have to determine the appropriate charges for services rendered.

The parties by agreement would select and compensate a qualified mediator from the list maintained by TDLR unless the parties by written agreement selected a mediator not on the list. If the parties did not agree on a mediator by the 10th day after TDLR ordered participation in the mediation, the motor carrier or towing company would be required to notify TDLR that a mediator had not been selected, and TDLR would select a mediator from the list based on convenience to the location of each party.

The fee for a mediator could not exceed $750 per party for a half-day of mediation or $1,500 per party for a full-day mediation. A mediation could not exceed one day unless all parties agreed to extend the mediation. Without regard to the outcome of mediation or subsequent proceedings, costs incurred by a party in mediation could not be imposed on the opposing party.

The bill would require both parties to by agreement select a venue and schedule for mediation. If the parties were unable to agree on a venue and schedule, the mediator would make the selections.

No later than 15 days after mediation concluded, the mediator would be required to report to TDLR whether mediation resolved the dispute. TDLR would notify the vehicle storage facility operator of the outcome of the mediation. If the mediation did not resolve the dispute, either party could file civil action. A party in a mediation could not bring a civil action before the mediation had concluded, but the motor carrier could file a request for a hearing prior to the conclusion.

If a party in mediation brought a civil action related to the fee dispute after the conclusion of the mediation process, the party bringing the action would have to give notice to the vehicle storage facility operator of the initiation and conclusion of the action. Notice would have to be given on filing the petition with the court, if the motor carrier was the party filing the action, or on service of citation on the motor carrier.

A vehicle storage facility operator who received notice of a mediation or civil action could continue charging a daily storage fee but could not sell or otherwise dispose of the vehicle involved in the fee dispute until the mediation or civil action was concluded and the party bringing the action notified the operator that the action was concluded in favor of the towing company.

The bill would require TDLR to:

- adopt forms and procedures necessary to administer the changes made in CSHB 3478;
- establish a portal on TDLR's website through which a request to participate in the mediation program could be submitted; and
- maintain a list of qualified mediators on TDLR's website.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

By establishing a mediation program, CSHB 3478 would allow motor carriers and towing companies to regulate themselves and avoid court, which could save time and money for the involved parties. Currently, civil action is the only option for motor carriers to hold towing companies accountable for overcharging. Mediation also could lead to increased cooperation between motor carriers and towing companies, ultimately leading to faster and less expensive resolutions.

Since there are no statewide standards for towing rates, there is little to prevent towing companies from overcharging. Additionally, motor carriers are often at a disadvantage, as they do not have advance notice of what the charges will be. Although some cities and counties have established rates, these charges only apply to companies who have contracts with the cities or counties. By establishing a mediation program that would give towing companies the opportunity to explain their prices and, if deemed unfair, lower them, the bill could help to discourage towing companies from overcharging.

TDLR is currently limited in the types of grievances that it can address, as current law does not allow towing bills to be reduced through tow hearings. A fee dispute under $20,000 can be considered in small claims court, but fees under $20,000 are not typically disputed by motor carriers. CSHB 3478 would not prevent anyone in the process from suing, but would allow certain disputes to be resolved more quickly and without costly civil action. Other state agencies have successful mediation programs to resolve disputes in other industries.

CRITICS SAY:

CSHB 3478 would require towing companies to engage in and pay for a mediation process in which they may not wish to participate. The required mediation fees established by the bill could cause towing companies to lose up to $1,500 every time a motor carrier requested mediation. This could hurt small Texas towing businesses, as the bill would apply to anyone licensed to perform towing services without consideration of a towing company's ability to pay for mediation. During certain vehicle recoveries, towing companies act as agents of law enforcement and charge fees set by a city or county. The bill would allow motor carriers to require mediation for a fee dispute in which a towing company had no choice but to participate. Towing companies already cooperate with motor carries

when resolving claims through insurance carriers and within tow hearings; CSHB 3478 would impose an additional and unnecessary burden on towing companies.

Towing companies are responsible for clearing highways as quickly as possible to keep the public safe, without always knowing if the company will be paid. Maintaining high standards for public safety can be expensive, as towing companies have to pay for quality equipment, disposal of cargo, hazmat operations, labor, and insurance. CSHB 3478 could require towing companies to defend prices for their expertise and services through an expensive mediation process and would place an additional burden on towing companies in obtaining the money they were owed. The bill also could require towing companies to pay for mediation before they received payment for their services.

CSHB 3478 could be interpreted to infringe on individuals' right to file a lawsuit as well as the open courts provision of the Texas Constitution, which prohibits any form of tax as a condition to access the courts. Provisions of CSHB 3478, including the payment of up to $1,500 before a litigant could pursue a civil suit, could be interpreted as impeding one's right to open court.

OTHER CRITICS SAY:

CSHB 3478 could be improved by increasing the minimum fee that could be mediated from $20,000 to $35,000. Additionally, unless the towing company was found to be in the wrong, the financial burden should be placed on the motor carrier bringing forth the action.

SUBJECT: Sunsetting certain building permit fees

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 — Ned Muñoz, Texas Association of Builders; Caroline Welton, Texas Public Policy Foundation (*Registered, but did not testify*: Scott Norman, Texas Association of Builders)

Against — None

DIGEST: HB 1922 would require a building permit fee to be abolished 10 years after the fee was adopted or most recently reauthorized. A building permit fee would be defined as a fee charged by a municipality as a condition to constructing, renovating, or remodeling a structure. A municipality would be allowed to reauthorize the fee if they held a public hearing on the reauthorization and reauthorized the fee by vote of the governing body.

The bill would take effect on January 1, 2024

SUPPORTERS SAY: HB 1922 could help lower housing costs by sunsetting burdensome building permit fees. Building permit fees are often a significant contributor to the cost of a house or an apartment and can impede structure renovation; sunsetting these fees would allow help to eliminate certain costs. By requiring public hearings on the reauthorization of these fees, the public would be able to have more of a say in the fees they pay for through their housing costs.

CRITICS SAY: HB 1922 could place an additional burden on cities by requiring them to track each building permit fee, as the fees would be abolished if the city did not reauthorize the fee within the established timeline. Additionally, many cities already track and reauthorize their permit fees, which could make the bill redundant in these cases.

SUBJECT: Continuing a health care provider participation program in Harris County

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Neave Criado, Stucky, Gerdes, J. Jones, Orr, Rosenthal, Schatzline, Slaton

1 nay — Tinderholt

WITNESSES: For — (*Registered, but did not testify*: Christina Hoppe, Children's Hospital Association of Texas; Juliana Cruz Kerker, HCA Healthcare; Steven Hand, Memorial Hermann Health System; Timothy Ottinger, St. Luke's Health; Jessica Schleifer, Teaching Hospitals of Texas; Meredith Cooke, Texas Children's Hospital; Jennifer Banda, Texas Hospital Association)

Against — (*Registered, but did not testify*: Henry Bohnert)

On — (*Registered, but did not testify*: Victoria Grady, Texas Health and Human Services Commission)

BACKGROUND: In 2019, the 87th Legislature passed HB 3459 creating the Harris County Hospital District health care provider participation program. The purpose of the program is to allow the hospital district to collect payments from health care providers to fund Medicaid supplemental and directed payment programs. The program is set to expire in statute on December 31, 2023.

DIGEST: CSHB 1925 would postpone the expiration of the Harris County Hospital District health care provider participation program until December 31, 2025.

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

SUPPORTERS SAY:

CSHB 1925 would allow hospitals in Harris county to continue supporting the health care safety net with federal dollars by extending the program's sunset date. The program allows nonpublic hospitals to receive federal Medicaid dollars matching their total net patient revenues and extending its expiration would help ensure those in need received health care.

CRITICS SAY:

CSHB 1925 would extend Harris County Hospital District's local provider participation fund, which may lack oversight regarding its sources and distribution of funds. These types of programs should not be continued until these concerns are addressed.

SUBJECT: Creating a license for physician graduates

COMMITTEE: Health Care Reform, Select — committee substitute recommended

VOTE: 7 ayes — Harless, Howard, Bonnen, Frank, Klick, Price, Walle

0 nays

4 absent — Bucy, E. Morales, Oliverson, Rose

WITNESSES: For — David Balat, Texas Public Policy Foundation; Alina Sholar, TX400; Patricia Aronin, TX400 and TEXAS Physicians for Patients PAC; Jack Franklin; Juliette Madrigal; Tiffany Ostovar-Kermani; Henna Sawhney (*Registered, but did not testify*: Genevieve Collins, Americans for Prosperity, the LIBRE Initiative; Michael Dole, Driscoll Heath System; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries; Mia McCord, Texans for Affordable Health Care/American Coalition for Affordable Health Care; Jaime Capelo, TX400)

Against — (*Registered, but did not testify*: Jackie Besinger)

On —Stephen Carlton, Texas Medical Board; Kevin Dayaratna

DIGEST: CSHB 2556 would create licenses and regulations for physician graduates through the Texas Medical Board.

Definitions. CSHB 2556 would define a physician graduate as an individual issued a limited license under the bill to practice medicine through a supervising practice agreement with a sponsoring physician. A sponsoring physician would be a physician who entered into a supervising practice agreement with a physician graduate to supervise the physician graduate's practice of medicine.

Rules and fees. The Texas Medical Board would be required to adopt rules relating to licensing and regulating of physician graduates, including rules relating to:

- procedures and fees for the issuance, term, and renewal of a license, including continuing medical education requirements;
- practices and requirements for the supervision of physician graduates; and
- any other matter necessary to ensure protection of the public, including disciplinary procedures.

The fee for a license issuance or renewal could not exceed the fee for the issuance or renewal of a physician assistant license.

License issuance. The Texas Medical Board would be required to issue a limited license to practice medicine to an applicant who was a resident of Texas and was a United States citizen, legal permanent resident, or other person authorized under federal law to work in the United States. Applicants also would have to be proficient in English and have graduated from:

- a board-recognized accredited medical or osteopathic medical school in the United States or Canada in the two years preceding the initial application date;
- a medical school outside of the United States or Canada that the board recognized as acceptable in the two years preceding the initial application date; or
- a medical school outside of the United States or Canada that the board recognized as acceptable if the applicant was licensed in good standing to practice medicine in another country.

Applicants would be required to have passed the first and second components of the United States Medical Licensing Examination or equivalent components of another board-approved licensing examination, could not be enrolled in a board-approved postgraduate residency program, and would have to meet any other requirements prescribed by board rules.

Sponsoring physicians. A physician could enter into a supervising practice agreement as a sponsoring physician if the physician:

- held a full and unrestricted license to practice medicine;
- had not and was not currently the subject of disciplinary action by any medical licensing authority;
- was certified by a medical specialty member board of the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialties; and
- practiced medicine in the specialty for which the physician was certified.

The Texas Medical Board would be required to establish the maximum number of physician graduates a sponsoring physician could supervise. A sponsoring physician would be required to comply with all board rules related to supervising physician graduates and would be liable for any medical act or the omission of any medical act by the physician graduate in the provision of medical services.

Supervising practice agreements. A physician graduate would not be allowed to practice or attempt to practice medicine without entering a supervising practice agreement. A physician graduate who entered into a supervising practice agreement could practice under the delegation and supervision of another physician if, in a written document, the sponsoring physician authorized the practice of the physician graduate under the delegation of the other physician. The other physician would be required to be part of the sponsoring physician's group or facility and certified in the same specialty as the sponsoring physician.

The physician profile of a sponsoring physician or physician graduate would indicate that the person had entered into a supervising practice agreement in the manner prescribed by the Texas Medical Board.

Limited practice. Physician graduates could only provide medical services in the specialty of the sponsoring physician. Before providing a treatment, consultation, or other medical service, physician graduates would have to disclose to the patient that they were physician graduates and, if asked, that they had not completed any formal specialized postgraduate or resident training. Physician graduates would not be allowed to prescribe a schedule II controlled substance.

Identification and titles. A license holder would have to display a document identifying the license holder as a physician graduate at all times. A physician graduate could use “doctor,” “doc.,” or “Dr.” as titles. A licensed physician graduate would be considered a general practitioner for the purposes of Centers for Medicare and Medicaid Services regulations.

License renewals, denials, suspensions, and revocations. The Texas Medical Board could not renew a license for a physician graduate unless the board verified that the license holder had practiced under a supervising practice agreement with a sponsoring physician in the license term preceding the application for renewal, and the license holder satisfied the continuing medical education requirements established by board rule.

The Texas Medical Board could deny an application for licensure for any ground established by statute or board rule and in the manner provided by statute and board rule.

Other provisions. An insured person could select a physician graduate to provide services scheduled in the health insurance policy that were within the scope of the physician graduate’s license.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 2556 would help address the health care workforce shortage, especially in rural and underserved areas, by allowing physician graduates to provide care under the supervision of a physician. Physician graduates are people who graduated medical school but were not accepted into a residency program. Currently, many of these graduates often work minimum wage jobs and are not able to use their education. Physician graduates receive training comparable to a nurse practitioner or a physician assistant and would be required to pass several exams, ensuring that they were qualified to provide care. Supervising physicians would be responsible and liable for the physician graduate at all times for any medical act, which would further ensure patient safety.

Many graduates do not get accepted to a residency program because there are not enough positions available, not necessarily because they are unqualified. Allowing physician graduates to obtain a limited license would help them gain experience and strengthen their residency applications if they chose to apply again. The bill also would encourage graduates who did not match into a residency program to move to Texas and could provide a pathway for more qualified medical providers from other countries to provide needed medical care.

CRITICS SAY:

The bill would not require physician graduates to work in a rural or underserved area, so it might not fill in gaps in the workforce in those areas. Also, residency programs are merit-based, and most US medical school graduates match into a residency, so individuals who are not accepted into a program may not be qualified to provide medical care.

SUBJECT: Revising Medicaid application and communication guidelines

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

1 absent — Ramos

WITNESSES: For — Jessica Lynch, Texas Association of Health Plans (*Registered, but did not testify*: Marisa Finley, Baylor Scott & White Health; Timothy Ottinger, CHI St. Lukes Health; Stacy Wilson, Children's Hospital Association of Texas; Michael Dole, Driscoll Health System; Elisa Hernandez, El Paso Health; Anne Dunkelberg, Every Texan; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries; Eric Glenn, Superior Health Plan; Charles Miller, Texas 2036; Kay Ghahremani, Texas Association of Community Health Plans; Meredith Cooke, Texas Children's Health Plan; Isabel Casas, Leela Rice, Texas Council of Community Centers; Marcus Mitias, Texas Health Resources; Cameron Duncan, Texas Hospital Association; Joshua Houston, Texas Impact; Clayton Travis, Texas Pediatric Society; Ashley Harris, United Ways of Texas; and six individuals)

Against — None

On — Hilary Davis, Health and Human Services Commission

DIGEST: HB 2802 would allow Medicaid managed care organizations to communicate by any electronic means, including telephone, text message, and email, with recipients who have provided their contact information through any method other than the Medicaid application regarding eligibility, enrollment, and other health care matters. Managed care organizations could not be required to submit recipients' contact preferences to HHSC.

The bill also would revise requirements for the Medicaid application by removing the option to consent to being contacted by a managed care organization or health plan provider. The application would be required to include language that notified the applicant that the applicant could opt out of being contacted by telephone, text message, or email by notifying the applicant's managed care organization or health plan provider.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement 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. The executive commissioner of HHSC would be required to adopt revised communication guidelines and a revised Medicaid application by January 1, 2024.

SUPPORTERS SAY:

HB 2802 would make it easier for managed care organizations to text Medicaid recipients about important health information. Cell phones are the most common communication device, and text messaging could make communication easier, enhance the delivery of services, and improve access to health care.

Additionally, the current opt-in option on the Medicaid application can be confusing since it requires authorization in multiple places. Switching to an opt-out option would streamline the application while still requiring consent and retaining protections from unwanted communications. HB 2802 would be especially helpful while HHSC is redetermining the eligibility of all Medicaid recipients after the end of the continuous coverage requirement related to the COVID-19 pandemic.

CRITICS SAY:

No concerns identified.

SUBJECT: Prohibiting someone with a sexual offense from holding massage licenses

COMMITTEE: Licensing & Administrative Procedures — favorable, without amendment

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

0 nays

1 absent — S. Thompson

WITNESSES: For — (*Registered, but did not testify*: James Parnell, Dallas Police Association; Ray Hunt, HPOU; Bill Kelly, Mayor's Office, City of Houston; John Wilkerson, Texas Municipal Police Association; Jennifer Allmon, The Texas Catholic Conference of Bishops)

Against — None

On — (*Registered, but did not testify*: Mary Winston, Texas Department of Licensing and Regulation)

DIGEST: HB 2016 would prohibit a person who was convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for sexual assault or aggravated sexual assault from being eligible for a massage establishment, massage school, massage therapist, or massage therapy instructor license.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 2016 would address concerns that individuals convicted of sexual offenses are allowed to practice in the massage industry. Clients of massage establishments are at a higher risk due to the inherent intimacy of the setting. In recent years, many cases of sexual misconduct and sexual assault violations have been reported involving the massage therapy industry.

Current law allows for license ineligibility for certain offenses but does not explicitly prohibit massage therapy licensure for individuals with certain sexual offenses. HB 2016 would allow for these needed prohibitions.

CRITICS SAY:

No concerns identified.

SUBJECT: Expanding the Blinn Junior College District

COMMITTEE: Higher Education — favorable, without amendment

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

0 nays

2 absent — Burrows, Raney

WITNESSES: For — None

Against — None

On — Leighton Schubert, Blinn College District

DIGEST: HB 1114 would expand the Blinn Junior College District service area to include the portion of the Waller Independent School District located in Harris County.

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: HB 1114 would expand the Blinn Junior College District to include a part of Waller ISD that is currently unserved by any junior college district. In addition to providing Waller ISD access to a junior college, the bill would make it easier for Blinn College to organize with Waller ISD on various initiatives. The bill would not constitute an annexation as it would expand the service area of Blinn Junior College District but would not expand its taxing district.

CRITICS SAY: No concerns identified.

SUBJECT: Increasing the criminal penalty for certain family violence assaults

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 — Lindy Borchardt, Tarrant County District Attorney Phil Sorrells; (*Registered, but did not testify*: Gerald Hodges, City of Grand Prairie; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, HPOU; Carlos Ortiz, San Antonio Police Officers Association; Esmeralda Flores, Texas Council on Family Violence; John Wilkerson, Texas Municipal Police Association; Jose Escribano, Travis County Constable Precinct 3; David Kohlrt; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code sec. 22.01(b) and (b-3) establishes the conditions under which the criminal penalty for a family violence related assault is enhanced.

An offense of assault against a person with whom the defendant had a family, dating, or household relationship or association would be enhanced from a Class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if:

- the defendant has been previously convicted of certain offenses against a person with whom the defendant had a family, dating, or household relationship or association; or
- the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the

blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

An offense of assault against a person with whom the defendant had a family, dating, or household relationship or association would be enhanced from a Class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if:

- if the defendant has been previously convicted of certain offenses against a person with whom the defendant had a family, dating, or household relationship or association; and
- the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

DIGEST:

HB 1589 would add certain violations of court orders and bond conditions to the applicable offenses that enhance the criminal penalty for family violence related assault.

HB 1589 would enhance from a Class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) the penalty for assault against a person with whom the defendant had a family, dating, or household relationship or association if the defendant was convicted of violating or repeatedly violating certain court orders or bond conditions by committing family violence.

The bill would enhance the penalty to a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the defendant had been previously convicted of violating or repeatedly violating certain court orders or bond conditions by committing family violence and the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

HB 1589 would provide prosecutors with the tools to appropriately penalize repeat offenders of family violence. Under current law, the penalty for an assault involving family violence is a Class A misdemeanor. If the defendant was previously convicted of family violence, the penalty is enhanced to a third-degree felony. When an individual is arrested for family violence, bond conditions and protective orders can be used to protect the family while the case is pending. Any additional acts of family violence constitute a violation of the bond conditions or the protective order, as applicable. Currently, a prior conviction of such a violation does not allow a prosecutor to enhance the penalty for family violence assault. HB 1589 would address this gap in the law, which would better protect victims from defendants who have exhibited patterns of violence.

CRITICS SAY:

No concerns identified.

SUBJECT: Creating a criminal offense for possession of an animal by certain persons

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

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

0 nays

WITNESSES: For — Stacy Sutton Kerby, Texas Humane Legislation Network (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas; Lara Laneri Keel, Hailey Foundation; Jason Vaughn)

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

On — (*Registered, but did not testify*: Joyce H)

DIGEST: CSHB 598 would establish a criminal penalty for individuals who possessed or exercised control over an animal or resided in a household in which an animal was present within the five-year period preceding a conviction of:

- an attack on an assistance animal;
- cruelty to non-livestock animals;
- dog fighting; or
- cockfighting.

The offense would be a Class C misdemeanor (maximum fine of $500). If the defendant had been previously convicted of such an offense, the penalty would be enhanced to a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000).

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

HB 598 would provide a sufficient deterrent for individuals convicted of animal cruelty. Current penalties do not adequately prevent an individual convicted of animal cruelty from possessing an animal in the future, and defendants convicted of animal cruelty often reoffend. Unless interrupted, offenders of animal cruelty could commit violence toward people. By preventing previous offenders of animal cruelty from possessing an animal and establishing an enhancement for repeat offenders, HB 598 would allow for intervention, which could prevent future violence.

CRITICS SAY:

HB 598 would unnecessarily create additional penalties for individuals who have been convicted of animal cruelty. Some people convicted of animal cruelty may rehabilitate, and continuing to penalize them would be unfair and redundant. Prevention and intervention would be a better deterrent than enhancing criminal penalties.

SUBJECT: Authorizing local option homestead exemptions for certain physicians

COMMITTEE: Ways & Means — favorable, without amendment

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

0 nays

2 absent — Thierry, Button

WITNESSES: For — (*Registered, but did not testify*: Kevin Hale, Libertarian Party of Texas)

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

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

DIGEST: HB 596 would allow a county commissioner's court to exempt from county property taxation up to 50 percent of the assessed value of the residence homestead of certain licensed physicians. The exemption would apply to a licensed physician who provided health care services to qualifying county residents for which they did not seek payment from any source, including Medicaid or other state or federal program. Qualifying county residents would include residents who were indigent or Medicaid recipients.

A county that adopted the exemption would be required to specify the number of qualifying county residents to which a physician would be required to provide health care services during a tax year to qualify for the exemption. The number of qualifying residents served could be expressed as a percentage of a physician's total practice. HB 596 also would allow the chief appraiser in a county that adopted the exemption to require additional information from a physician to confirm eligibility.

The exemption would apply in addition to any other exemption, and the commissioners court could repeal the exemption in the manner provided by law.

The bill would apply only to property taxes imposed for a tax year that began on or after the effective date.

The bill would take effect January 1, 2024, but only if the constitutional amendment proposed by this Legislature was approved by voters. If the constitutional amendment were not approved, the bill would have no effect.

SUPPORTERS SAY:

HB 596 would allow counties to establish an incentive for physicians to provide indigent care in their communities. The bill would provide an optional tool for counties having difficulty recruiting doctors to serve residents most in need. Providing counties with this option could encourage more physicians in the community to provide indigent care. Physicians may also be interested in relocating to counties offering county property tax reductions, which could increase the number of physicians providing care to residents overall.

CRITICS SAY:

No concerns identified.

NOTES:

The constitutional amendment authorizing HB 596 is HJR 45, which also is on the daily House calendar for second reading consideration today.

SUBJECT: Authorizing alternative assessment procedures for certain students

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Buckley, Allen, Cunningham, Dutton, Cody Harris, Harrison, Hefner, Hinojosa, K. King, Longoria, Talarico

1 nay — Schaefer

1 absent — Allison

WITNESSES: For — (*Registered, but did not testify*: Mark Terry, Texas Elementary Principals and Supervisors Association; Idona Griffith; Susan Stewart)

Against — (*Registered, but did not testify*: Carrie Moore, Texas Education 911)

On — Steven Aleman, Disability Rights Texas; Andrea Chevalier, Texas Council of Administrators of Special Education (*Registered, but did not testify*: Eric Marin, Kristin McGuire, Justin Porter, Iris Tian, Texas Education Agency; Ashley Ford, The Arc of Texas)

BACKGROUND: Subch. B, ch. 39 of the Education Code requires the State Board of Education to establish a statewide assessment program and instruments to assess students' essential knowledge and skills in reading, mathematics, social studies, and science.

Sec. 39.023(b) and (b-1) require the Texas Education Agency (TEA) to develop or adopt alternative assessment instruments for special education students and significantly cognitively disabled students for whom the standard assessment would not provide an appropriate measure of student achievement.

DIGEST: CSHB 579 would allow the parent or guardian of a student with cognitive disabilities to request that the student be exempted from the administration of an alternative assessment instrument adopted or developed under sec. 39.023(b) or (b-1). If a parent or guardian made such an exemption

request, the bill would require the student's admission, review, and dismissal committee, in consultation with the parent or guardian, to determine if the student should be:

- administered an alternative assessment instrument under sec. 39.023(b) or (b-1);
- exempted from administration of both alternative assessment instruments and assessed in the applicable subject using the alternative assessment method developed by the bill; or
- exempted from the administration of the above mentioned assessment instruments.

The bill would require the TEA commissioner, in consultation with parents, guardians, and other stakeholders, to develop for each applicable subject an alternative assessment method for the assessment of the student for whom an exemption was requested. The criteria for the assessment method would be required to include progress on the goals identified in the student's individualized education plan.

The bill would define a "specialized support campus" as a school district campus that had a campus identification number and served students enrolled in any grade level at which state assessment instruments were administered. A specialized support campus would be required to have a student enrollment in which at least 90 percent of students received special education services and in which a significant percentage of the students required to take a standard assessment instrument took an alternative assessment instrument wherein they were unable to provide an authentic academic response.

CSHB 579 would require the TEA commissioner, in consultation with administrators and teachers of such campuses, relevant parents and guardians, and other stakeholders, to establish appropriate accountability guidelines for use by a specialized support campus in developing an alternative accountability plan based on the specific student population served by the campus. The commissioner would be required to provide for public notice and comment in adopting rules for this purpose.

The bill would allow a specialized support campus to develop and submit to the TEA commissioner for approval an alternative accountability plan tailored to the student population served by the campus based on the appropriate accountability guidelines developed by the commissioner. The commissioner could approve the alternative accountability plan only if the plan followed the bill's established guidelines and complied with federal law. The bill would require the commissioner to determine, report, and consider the performance of students enrolled at a specialized support campus using the approved alternative accountability plan developed by the campus.

The bill would require the TEA commissioner no later than December 1, 2026, to submit a report on the effectiveness of such plans in evaluating specialized support campuses and any recommendations for action to the governor, the lieutenant governor, the speaker of the House, and the relevant standing legislative committees.

The provisions regarding alternative accountability plans for specialized support campuses would expire September 1, 2027.

The bill would require TEA to apply to the United States Department of Education no later than January 1, 2024, for a waiver of the annual alternate assessment of students with significant cognitive disabilities as required by federal statute.

The provisions of the bill would apply beginning with the 2023-2024 school year.

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:

CSHB 579 would provide alternative testing methods for students with cognitive disabilities who are not properly served by the current standard and alternative testing policies. Many students with cognitive disabilities in the state need a different way to show what they have learned in class, and the bill would provide these students with better alternative assessment methods. The bill also would empower parents and guardians

by allowing them to request the exemption and consult with the student's ARD committee during the determination process. The bill would not lead to any undue burden on school administrators or require more resources than TEA could reasonably provide. The number of students affected by the bill also would not impact the state's ability to meet federal testing requirements.

CRITICS SAY:

While CSHB 579 is well intentioned, it is unclear if the alternative criteria established by the bill for exempted students would meet the requirements of federal law. Additionally, if TEA did not receive necessary federal waivers, the bill could lead to the state needing to operate state and federal accountability systems separately, which could require significantly more resources.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $4,210,465 to general revenue related funds through the biennium.