HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 08, 2023
88th Legislature, Number 59
The House convenes at 10 a.m.
Part One

One bill is on the Major State Calendar, two resolutions are on the Constitutional Amendments Calendar, and 81 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

Daily Floor Report
Monday, May 08, 2023
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Part 1

SUBJECT: Revising certain political reporting requirements

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Hunter, Hernandez, Anchía, Dean, Metcalf, Slawson, Smithee, Spiller, Turner

0 nays

4 absent — Geren, Guillen, Raymond, S. Thompson

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

Against — (*Registered, but did not testify*: Katie Naranjo, Travis County Democratic Party; Valarie Gold; Veronica Maples; Samantha McDaniel; Luke Squires; Calvin Tillman)

On — (*Registered, but did not testify*: JR Johnson, Texas Ethics Commission; Shawn Hall Lecuona, The Voice of Justice and of Consanguinity; Teresa Weirich)

BACKGROUND: Some have suggested that campaign finance reporting requirements should be amended to facilitate more efficient disclosure and transparency.

DIGEST: CSHB 1585 would establish that a communication supporting or opposing legislation filed by a member of the Legislature was considered political advertising for the purposes of campaign finance regulations if it appeared to express support or opposition of the member or person who supported or opposed the legislation.

The bill would revise the prohibition on a candidate knowingly accepting campaign contributions or making a campaign expenditure at a time when a campaign treasurer appointment for the candidate was not in effect to apply only to contributions and expenditures over $500.

The bill would repeal provisions requiring a political recordkeeping report filed with the Texas Ethics Commission to include the amount, date, and contributor name of each political contribution made electronically and accepted by the person or committee required to file the report. The bill also would revise the requirement that such a report include the name of each candidate or officeholder who benefited from a campaign expenditure to instead require that the report include the name of each candidate or officeholder for whom a campaign expenditure was made to support or oppose.

Provisions requiring a report to include political expenditures made with a credit card to be reported in a single itemized list with certain data would be repealed.

The bill would require the Texas Ethics Commission to adjust dollar amount reporting thresholds for laws administered and enforced by the commission every 10 years, rather than annually, based on the federal Bureau of Labor Statistics' Consumer Price Index for Urban Consumers.

CSHB 1585 would specify that the election of the speaker of the House of Representatives was included in the statutory definition of "legislation."

The bill would take effect September 1, 2023, and would apply only to a report filed or an adjustment made on or after that date.

SUBJECT: Authorizing the Legislature to define terms related to farm products

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 11 ayes — Meyer, Thierry, Button, Craddick, Gervin-Hawkins, Hefner, Muñoz, Noble, Raymond, Shine, Turner

0 nays

WITNESSES: For — (*Registered, but did not testify*: John Bender, Texas Corn Producers Association; Blake Roach, Texas Farm Bureau; Joe Morris, Texas Forestry Association; Ryan Skrobarczyk, Texas Nursery & Landscape Association)

Against — None

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

BACKGROUND: Some have suggested that certain assets used by farmers to begin farm production, such as weaned animals, seeds, fertilizer, and pesticides, should be exempt from taxation like other farm products, livestock, poultry, and implements of animal husbandry to incentivize these essential contributions to the state economy.

DIGEST: HJR 141 would amend the Texas Constitution to revise the provision exempting from all taxation farm products, livestock, and poultry in the hands of the producer. The amendment would authorize the Legislature to define "farm products" and "in the hands of the producer" and allow the Legislature to include livestock, poultry, timber, and supplies used or produced in a farming operation in the definition of "farm products."

The ballot proposal would be presented to voters at an election on November 7, 2023 and would read: "The constitutional amendment authorizing the Legislature to define certain terms for purposes of the exemption from ad valorem taxation of farm products in the hands of the producer."

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

SUBJECT: Proposing a constitutional amendment to create the Texas Water Fund

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — T. King, E. Thompson, Kacal, Kitzman, Lalani, Metcalf, Price, Ramos, Rogers, Zwiener

0 nays

1 absent — Gamez

WITNESSES: For — Jeremy Mazur, Texas 2036; Perry Fowler, Texas Water Infrastructure Network (*Registered, but did not testify*: Steven Albright, AGC of Texas- Highways, Heavy, Utilities and Industrial Branch; Guadalupe Cuellar, City of El Paso; Todd Votteler, Collaborative Water Resolution, LLC; Vanessa Puig Williams, EDF; Kaitlyn Murphy, Greater Houston Partnership; Carlos Rubinstein, RSAH2O LLC; Ned Muñoz, Texas Association of Builders; Rebecca Grande, Texas Association of Business; Monty Wynn, Texas Municipal League; Julie Nahrgang, The Water Environment Association of Texas and Texas Association of Clean Water Agencies; Kenneth Flippin, US Green Building Council Texas Chapter; Nancy Mckee)

Against — (*Registered, but did not testify*: Sandra Blankenship)

On — (*Registered, but did not testify*: Tammy Benter, Celia Eaves, Public Utility Commission; Jeff Walker, Texas Water Development Board)

BACKGROUND: Some have suggested that, due to the importance of the state's water infrastructure and associated costs, Texas should implement a long-term investment strategy to finance the development of water supplies and infrastructure.

DIGEST: CSHJR 169 would amend the Texas Constitution to create the Texas Water Fund as a special fund in the state treasury outside the general revenue fund. Money in the fund would be administered by the Texas

Water Development Board (TWDB) and could be used only as provided by general law and by TWDB.

The Texas Water Fund would consist of:

- money transferred or deposited to the fund in accordance with the resolution's provisions;
- appropriations made by the Legislature;
- gifts and grants;
- all interest, dividends, and other income of the fund;
- proceeds from the sale of bonds; and
- repayments of loans made from the fund.

Money from the fund could be used to make grants or loans for water infrastructure projects and to disburse money to another fund or account administered by TWDB.

Subject to certain limitations, the Legislature would be required to provide by general law for the manner in which the assets of the fund could be used and could provide for costs of the fund to be paid from the fund.

The comptroller would be required to deposit $250 million of net general revenue funds that exceeded $30.5 billion to the Texas Water Fund in each fiscal year starting September 1, 2023. The Legislature, with a resolution approved by a record vote of two-thirds of the members of each house, could direct the comptroller to reduce the amount of money deposited to the credit of the fund, but only:

- in the fiscal year that the resolution was adopted, or in either of the following two fiscal years; and
- by an amount that did not reduce the amount that would otherwise be deposited by more than 50 percent.

TWDB could establish separate accounts in the fund as necessary to administer the fund or authorized projects. The Legislature could authorize TWDB to issue bonds and enter into related credit agreements that were payable only from all revenues available to the fund.

The bill would require TWDB to provide to the Legislative Budget Board (LBB) written notice before issuing such a bond or entering into such a credit agreement, as well as a copy of the proposed bond or agreement for approval. The proposed bond or agreement would be considered approved unless LBB issued written disapproval by the 21st day after receiving the submission.

For each fiscal year in which payments were due under the fund's revenue bonds or agreements, TWDB would be required to set aside a sufficient amount from the revenue of the fund to pay any cost related to the bonds that became due during that fiscal year, including the principal and interest on the bonds.

Any obligations authorized by general law to be issued by TWDB would be considered special obligations that were payable solely from amounts in the fund and could not be considered a constitutional state debt that was payable from the general revenue of the state. Any dedication or appropriation of revenue to the credit of the fund could not be modified to impair any outstanding bonds secured by a pledge of that revenue, unless provisions had been made for a full discharge of those bonds. Money in the fund would be dedicated by the constitution for purposes of the constitutional limit on the growth rate of the applicable appropriations.

The resolution would intend only to establish a basic, noncomprehensive framework of the fund, and would authorize the Legislature to implement provisions of the resolution or delegate certain responsibilities to TWDB.

The proposed constitutional amendment would be submitted to the voters at an election to be held November 7, 2023, and would read "the constitutional amendment providing for the dedication of certain sales and use tax revenue to a special fund established in the state treasury to pay for water infrastructure in this state."

NOTES:

According to the Legislative Budget Board, HJR 169 would have an estimated negative impact of about $500 million to general revenue related funds during fiscal 2024-2025.

SUBJECT: Revising the definition of qualified employee for enterprise zone purposes

COMMITTEE: International Relations & Economic Development — committee substitute recommended

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

0 nays

WITNESSES: For — Melissa Munoz, Ryan, LLC (*Registered, but did not testify*: Bill Kelly, Mayor's Office, City of Houston; Zach Scott, Round Rock Chamber; Matt Grabner, Ryan, LLC; Servando Esparza, TechNet; Megan Mauro, Texas Association of Business)

Against — None

On — (*Registered, but did not testify*: Shannon Brandt, Comptroller of Public Accounts; Terry Zrubek, Economic Development and Tourism Office, Office of the Governor)

BACKGROUND: Some have expressed that provisions of the Texas Enterprise Zone Act should be updated to ensure that certain companies with employees who work from home could continue to qualify for enterprise zone funds.

DIGEST: HB 2644 would revise the definition of "qualified employee" for purposes of the Texas Enterprise Zone Act. To be considered a qualified employee, a person would only need to be assigned to a qualified business site rather than report to the site. The bill would revise this requirement to apply only if the person engaged in services, rather than the transportation of goods and services, off-site. The bill also would add Texas residency as a condition for being considered a "qualified employee."

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, and would apply only to an application for an enterprise project designation that was submitted on or after that date. The

bill also would apply only to an enterprise project that was under audit or subject to audit by the comptroller on or after the effective date.

SUBJECT: Exempting persons with an intellectual disability from the death penalty

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

WITNESSES: For — Jennifer Allmon, Texas Catholic Conference of Bishops; Kirk Noaker, The Arc of Texas (*Registered, but did not testify*: Kevin Hale, Libertarian Party of Texas; John Litzler, Texas Baptists; Allen Place, Texas Criminal Defense Lawyers Association; Bee Moorhead, Texas Impact; and 6 individuals)

Against — (*Registered, but did not testify*: James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; Todd McCoy, Montgomery County S.O.; Jack Armstrong II, Michael Landrum, Justin Schutzenhofer, Michael Uber, Jason Prince, Montgomery County Sheriff's Office; Lindy Borchardt, Tarrant County Criminal District Attorney; John Wilkerson, TMPA; Joyce H)

On — Benjamin Wolff, Office of Capital and Forensic Writs; Raoul Schonemann (*Registered, but did not testify*: Sabrina Gonzalez, Texas Council for Developmental Disabilities)

BACKGROUND: In *Atkins v. Virginia, 536 U.S. 304 (2002)*, the U.S. Supreme Court ruled that executing people with intellectual disabilities constituted cruel and unusual punishment, which is prohibited by the Eighth Amendment.

In 2017, the U.S. Supreme Court ruled in *Moore v. Texas, 137 S. Ct. 1039 (2017)* that standards for determining intellectual disability of a capital defendant used by the Texas Court of Criminal Appeals were unconstitutional because the standards did not align with the medical community's diagnostic framework.

Some have suggested that legislation is needed to create uniform standards for determining whether a capital defendant has an intellectual disability to bring Texas into alignment with U.S. Supreme Court decisions on this issue.

DIGEST:

HB 381 would prohibit a defendant with an intellectual disability from being sentenced to death. "Intellectual disability" would mean significantly subaverage general intellectual functioning that was concurrent with deficits in adaptive behavior and originated during the developmental period. The bill also would define other terms related to intellectual disability.

Hearing. No later than the first anniversary of the defendant's indictment, the attorney for a defendant in a capital case could submit a written request to the judge to hold a hearing to determine whether the defendant was a person with an intellectual disability. If the request was timely filed, the judge would be required to hold a hearing to determine the issue no earlier than 180 days after the written request was submitted and no later than the 120th day before the trial was scheduled to begin.

If the attorney filed an untimely request, or otherwise presented evidence that the defendant was a person with an intellectual disability after the time for filing a request, the judge could hold a hearing if the attorney showed good cause for not filing within the time limits. The hearing could not be held before a jury.

Appointment of disinterested expert. After the judge received a request for a hearing and on the request of either party or on the judge's own motion, the judge would be required to appoint a qualified disinterested expert to examine the defendant and determine whether the defendant was a person with an intellectual disability. The examination would be required to be narrowly tailored to determine whether the defendant had an intellectual disability. The judge would be authorized to order the defendant to submit to such an examination.

Burden of proof. At a hearing, the burden would be on the defendant to prove by a preponderance of the evidence that the defendant was a person with an intellectual disability. The state could offer evidence to rebut the

defendant's evidence. Evidence offered by either party in a hearing would be required to be consistent with prevailing medical standards for the diagnosis of intellectual disabilities.

Determination by a jury. The judge would be required to empanel a jury solely for the purpose of determining whether the defendant was a person with a disability. After the conclusion of the hearing, the judge would be required to instruct the jury to state in its verdict whether the defendant was a person with a disability. The verdict would have to be unanimous.

If the jury determined that the defendant was a person with an intellectual disability, the judge would be required to issue an appropriate order. If the jury determined that the defendant was not a person with an intellectual disability, the judge would be required to conduct the trial as if the hearing had not been held.

At the trial, the trial jury could not be informed that a hearing to determine whether the defendant was a person with an intellectual disability was held and the defendant could present evidence of intellectual disability as otherwise permitted by law.

The defendant could, with the consent of the state's attorney, waive a hearing before a jury and request a hearing before the judge.

Determination by judge. If a hearing before a jury was waived, the hearing would be required to be held before the judge without a jury. Within 30 days of the conclusion of a hearing, the judge would be required to determine whether the defendant was a person with a disability and issue an appropriate order. The order would be required to contain findings of fact explaining the judge's reasoning and citing evidence in the record.

If the judge determined that the defendant was not a person with a disability, the judge would be required to conduct the trial as if a hearing had not been held.

The trial jury could not be informed that a hearing to determine whether the defendant was a person with an intellectual disability was held and the

defendant could present evidence of intellectual disability as otherwise permitted by law.

Appeals. The state's appeal of an order under HB 381 would be a direct appeal to the court of criminal appeals. The court would be required to expeditiously review the appeal.

The bill would take effect September 1, 2023, and would apply only to a trial that commenced on or after that date, regardless of when the alleged offense was committed.

SUBJECT: Amending elections process for Terry Memorial Hospital District

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Neave Criado, Stucky, Gerdes, J. Jones, Orr, Rosenthal, Schatzline

2 nays — Slaton, Tinderholt

WITNESSES: For — Jennifer Claymon, Terry Memorial Hospital District

Against — None

BACKGROUND: Some have suggested that the Legislature should codify the Terry Memorial Hospital District's election process.

DIGEST: CSHB 1583 would require directors of the Terry Memorial Hospital District board to be elected at large using a cumulative voting procedure. All director positions to be filled at the election would be voted on as one race. Each voter would be entitled to cast a number of votes equal to the number of positions to be filled with a maximum of four votes per voter. A voter could cast one or more of the specified number of votes for any one or more candidates in any combination, and only whole votes could be counted.

If a voter cast more than the voter's entitled number of votes, none of the voter's votes could count in that election. If the voter cast fewer votes than the voter's entitled number of votes, all of the voter's votes would count. The candidates with the highest number of votes would be elected. The secretary of state would be required to prescribe any additional procedures necessary for the orderly and proper administration of an election held under the bill's provisions.

The bill would remove a requirement that notice of a directors' election be published at least 10 days before the election. The bill would replace a requirement that a person file a petition to have the person's name printed

on the ballot with a requirement that the person file an application with the board secretary.

The bill would take effect September 1, 2023, and would apply only to an election ordered on or after the effective date.

SUBJECT: Extending timelines for charter school creation and expansion

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Buckley, Allison, Cunningham, Cody Harris, Harrison, Hefner, K. King, Schaefer

2 nays — Hinojosa, Talarico

3 absent — Allen, Dutton, Longoria

WITNESSES: For — Bryce Adams, Texas Public Charter Schools Association (*Registered, but did not testify*: John Colyandro, American Federation for Children; Garry Jones, Democrats for Education Reform TX; Djenane Bolton, Deron Robinson, Aaron Landon Turrubiarte, Denton ISD; Frank Corte, International Leadership of Texas Public Schools; Jean Mayer, Pflugerville ISD; Gabriel Grantham, Texas 2036; Stephanie Matthews, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Matthew McCormick, Texas Public Policy Foundation; Clinton Thornburg)

Against — (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Mary Lowe, Families Engaged; Kelsey Kling, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Paige Williams, Texas Classroom Teachers Association; Carrie Griffith, Texas State Teachers Associationo: and 16 individuals)

On — (*Registered, but did not testify*: Eric Marin, Marian Schutte, TEA; Dee Carney, Texas School Alliance)

BACKGROUND: Some have suggested that a public charter holder should be allowed to give earlier notification when seeking to establish a new campus or expand an existing school in order to give school districts more advance notice and charter schools more time to plan.

DIGEST: HB 2102 would require the commissioner of education to allow a charter holder to provide written notice of the establishment of a new charter

school campus up to 36, rather than 18, months before the date on which the campus was expected to open.

The bill also would allow a charter holder to submit a request for approval for an expansion amendment up to 36, rather than 18, months before the date on which the expansion would be effective.

The bill would take effect September 1, 2023.

SUBJECT: Requiring certain training for transportation network company drivers

COMMITTEE: Licensing & Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — K. King, Walle, Goldman, Harless, Hernandez, Herrero, T. King

3 nays — Patterson, Schaefer, Shaheen

1 absent — S. Thompson

WITNESSES: For — Mandi Kimball, Children at Risk (*Registered, but did not testify*: Servando Esparza, TechNet; Chris Miller, Uber Technologies Inc.; Doug Davis, Tom Spilman, Wholesale Beer Distributors of Texas; Thomas Parkinson)

Against — None

BACKGROUND: Some have suggested that requiring transportation network companies to provide drivers with human trafficking awareness and prevention materials could help prevent rideshare applications from being exploited by human traffickers.

DIGEST: HB 2323 would require a transportation network company to annually provide human trafficking prevention training materials to each driver authorized to use the company's digital network. The training materials would have to be:

- provided in a digital or Internet-based video format;
- at least 15 minutes in duration;
- approved by the attorney general;
- provided in English and Spanish; and
- provided before a new driver was authorized to provide rides using the company's digital network.

The materials would have to include:

- an overview of human trafficking;

- guidance on how to identify at-risk individuals;
- relevant information on the difference between labor and sex trafficking;
- guidance on the role of a driver in reporting and responding to human trafficking; and
- the contact information of appropriate entities for reporting human trafficking.

A transport network company would be required to maintain records necessary to establish that the company had provided the required training materials.

The bill would take effect September 1, 2023.

SUBJECT: Requiring disclosure of health plan prescription drug information

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

WITNESSES: For — Matt Williams, McKesson (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries; Shannon Meroney, National Association of Benefits & Insurance Professionals; Januari Fox, Prism Health North Texas; David Reynolds, Texas Chapter American College of Physicians Services; Ben Wright, Texas Medical Association; Ware Wendell, Texas Watch)

Against — (*Registered, but did not testify*: Pasha Moore, Pharmaceutical Care Management Association)

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

BACKGROUND: Some have suggested that providing patients and providers with more specific information about health plan coverage of a drug and corresponding patient out-of-pocket costs could help identify affordable drug options and improve patient adherence to prescribed medications.

DIGEST: CSHB 1754 would require health plan disclosure of certain information related to a covered prescription drug. Upon the request of the enrollee or the enrollee's prescribing provider, the health plan issuer would be required to provide the health plan's drug formulary and the following information for a prescription drug and any formulary alternative:

- the enrollee's eligibility;
- cost-sharing information, including any deductible, copayment, or coinsurance and certain other items; and
- applicable utilization management requirements.

The bill would specify criteria the health plan issuer would be required to follow when fulfilling a request for prescription drug information. A health plan issuer also would be prohibited from:

- delaying or denying a response to a request for information with the intent to block the information;
- restricting a prescribing provider from communicating to the enrollee certain information provided by the health plan;
- except as required by law, interfering with, preventing, or materially discouraging access to or the exchange of use of the information, including by charging a fee to access the information, not responding to a request within the time required, or instituting a consent requirement for an enrollee to access the information; or
- penalizing the provider, including taking any action intended to punish or discourage future similar behavior, for disclosing the information provided or prescribing, administering, or ordering a lower cost or clinically appropriate drug.

A health plan issuer with fewer than 10,000 enrollees could register with the Texas Department of Insurance to receive an additional 12 months after the effective date of the bill to comply with its requirements. After the additional 12 months, the issuer could request from the department a temporary exception from one or more requirements by submitting a report to the department that demonstrated that compliance would impose an unreasonable cost relative to the public value that would be gained from full compliance.

The requirements in the bill would apply only to certain health plans and health plan issuers identified in the bill and would not apply to:

- the Medicaid program, including the Medicaid managed care program;
- the state child health plan program;
- the TRICARE military health system; or
- a workers compensation insurance policy or other form of workers compensation coverage.

The bill would take effect September 1, 2023, and would apply only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2025.

SUBJECT: Changing DROP eligibility for certain firefighters and police officers

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

VOTE: 8 ayes — Capriglione, Lambert, Bhojani, Bryant, Leo-Wilson, Plesa, VanDeaver, Vo

0 nays

1 absent — Frazier

WITNESSES: For — Brett Besselman, Houston Fire Pension; Ray Hunt, Houston Police Officers' Union (*Registered, but did not testify*: Patrick M. "Marty" Lancton, Houston Professional Fire Fighters Association; Aidan Alvarado, Laredo Firefighters Association; Michael Silva, Mission Fire Fighters Association; Gabriel Munoz, San Antonio Professional Fire Fighters Local 624; Javier Patlan, SAPFFA Local 624; Mitch Landry, Texas Municipal Police Association; Glenn Deshields, Texas State Association of Fire Fighters; John Riddle, Texas State Association of Fire Fighters; Steven Jones; Tylan Weber)

Against — Melissa Dubowski, Mayor's Office, City of Houston (*Registered, but did not testify*: Kaitlyn Murphy, Greater Houston Partnership; Crystal Brown, Houston Police Officers' Pension System)

On — (*Registered, but did not testify*: Anthony Kivela, Houston Police Retired Officers Association; Amy Cardona, Ashley Rendon, Pension Review Board)

BACKGROUND: Some have suggested that making certain changes to the retirement plans for firefighters and police officers could help the City of Houston to attract and retain more firefighters and police officers.

DIGEST: CSHB 3340 would revise eligibility requirements and other provisions related to the Deferred Retirement Option Plan (DROP) for firefighters' relief and retirement funds and for the police officers' pension system.

Firefighters' relief and retirement funds. CSHB 3340 would raise the population minimum for municipalities to which DROP provisions for firefighters relief and retirement funds would apply to from 1.6 million to 2 million.

The bill would revise the definition of "normal retirement age" for firefighters' relief and retirement funds to mean:

- the age at which a member attains 20 years of service; or
- the age at which the member first attains both the age of at least 50 and at least 10 years of service.

The bill would increase the amount of time during which members eligible for a service pension in active service could participate in DROP from 13 to 20 years and make conforming changes. The bill would increase the percentage of earnings credited to a member's DROP account from 65 to 70 percent of the average annual return earned by the fund over the previous five years, excluding the year during which the credit is given. The bill also would remove the requirement that the annual return rate was compounded.

The bill would specify that members with less than 13 years of DROP participation would be eligible to receive certain disability benefits as a monthly pension benefit, in addition to payments from the DROP account balance.

The bill would increase the amount of time for which members could earn service credit for a break in service from 13 to 20 years.

All members, rather than members hired or reinstated before the 2017 effective date of certain provisions, would be entitled to a monthly deferred pension benefit of 1.7 percent of the member's average salary multiplied by the amount of years of participation if they terminated service with 10 to 20 years of participation, starting at age 50.

The bill would establish that all members, rather than those hired or rehired on or after the 2017 effective date, who terminated active service

before completing 10 years of participation would be entitled to only a refund without interest.

Police officers' pension system. CSHB 3340 would revise the definition of "normal retirement age" for the police officers' pension system to mean:

- the age at which a member attains 20 years of service; or
- the age at which the member first attains both the age of at least 60 and at least 10 years of service.

The bill would establish that only members who achieved the retirement age requirement of at least 20 years of participation would be eligible for a monthly service pension. The bill would remove the ability for certain classified police officers to be eligible for the monthly service pension.

The bill would specify that all active members with at least 20 years of service could file to participate in DROP and receive DROP benefits.

The bill would remove a provision that the calculations for determining the hypothetical earnings rate compound the average of the aggregate annual rate of return on investments of the pension system for the five consecutive fiscal years to which the earnings rate applies.

Effect. The bill would take effect January 1, 2024. The bill would apply to a member who retired on or after the effective date. Provisions regarding the period in which a member in active service could participate in DROP and provisions regarding calculations for monthly credit would apply to a member who participated in DROP on or after the effective date, regardless of whether the member began participation before the effective date.

SUBJECT: Extending tort liability shield to include the disposal of drill cuttings

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 7 ayes — Goldman, E. Morales, Anderson, Bailes, Darby, Gerdes, Guerra

0 nays

4 absent — Anchía, Craddick, Thierry, Zwiener

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; Matthew King, Republic Services (*Registered, but did not testify*: Julie Williams, Chevron; Jimmy Carlile, Fasken Oil and Ranch, ltd; Travis McCormick, Panhandle Producers & Royalty Owners Association; Stephen Minick, Republic Services; Lee Parsley, Texans for Lawsuit Reform; Jason Modglin, Texas Alliance of Energy Producers; Rebecca Grande, Texas Association of Business; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Jennifer Bremer, Texas Land & Mineral Owners Association; Carl Jacob)

Against — (*Registered, but did not testify*: Colore Lincoln)

On — (*Registered, but did not testify*: Leslie Savage, Railroad Commission of Tx)

BACKGROUND: Natural Resources Code sec. 123.003 states that a person who generates and transfers drill cuttings to a permit holder with contractual understanding that the drill cuttings be used in connection with road building or another beneficial use is not liable in tort for a consequence of the subsequent use of the drill cuttings by the permit holder or by another person.

Concerns have been raised that the extent to which the tort liability shield is applicable regarding the generation and transfer of drill cuttings should be clarified.

DIGEST:

HB 618 would specify that, unless otherwise provided by a contract or other written agreement, a person who generates drill cuttings and transfers the drill cuttings in an arm's length transaction to an unaffiliated third-party permit holder under a contract that would require the drill cuttings be used in connection with road building or another beneficial use or be disposed of would not be held liable in tort for a consequence for the subsequent use or disposal. For a person to avoid liability, the bill would additionally require:

- the person who generated the drill cuttings had the legal and contractual right to transfer the drill cuttings to the permit holder;
- the method and location of the use or disposal were not prohibited by law, contract, or other written agreement; and
- the consequence was caused solely by the permit holder.

HB 618 would specify that the definition of "drill cutting" applied to any associated sand, silt, drilling fluid, spent completion fluid, workover fluid, debris, water, brine, oil scum, paraffin, or other material cleaned out of the well bore. The definition of "permit holder" would be amended to include a commercial oil and gas waste disposal facility.

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. The bill would apply only to an action that accrued on or after the effective date.

SUBJECT: Allowing physicians to delegate prescribing or ordering certain substances

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Klick, Collier, Jetton, A. Johnson, Oliverson, Price, Smith

4 nays — Campos, J. Jones, V. Jones, Tinderholt

WITNESSES: For — Lesley Wimmer, Opioid Treatment Coalition; Autumn Spencer, Texas Academy of Physician Assistants; Monee Carter-Griffin, Carla Patel, Texas Nurse Practitioners; Valerie Dezarae Cavazos; Jason Morrow (*Registered, but did not testify*: Allison Francis, CHCS; Chase Bearden, Coalition of Texans with Disabilities; Royce Poinsett, Greenlight; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Lyssette Galvan, NAMI Texas; Kent Prickett, Texas Academy of PAs; Matt Abel, Texas Association of Business; Leela Rice, Texas Council of Community Centers; Sara Gonzalez, Texas Hospital Association; Erin Cusack, Erin Perez, Cindy Weston, Texas Nurse Practitioners; Jack Frazee, Texas Nurses Association; Ashley Ford, The Arc of Texas; Andrew Smith, University Health; and seven individuals)

Against — Girish Joshi, MD, FASA, Texas Society of Anesthesiologists; Patricia Aronin, Alina Sholar, Tx400/Texas Physicians for Patients PAC (*Registered, but did not testify*: David Reynolds, Texas Chapter American College of Physicians; Krista DuRapau, Texas Pain Society; Cindi Davison; Liinda Durnin)

BACKGROUND: Some have suggested that allowing physicians to delegate the prescribing or ordering of schedule II controlled substances to advanced practice registered nurses and physician assistants could improve the continuum of care for patients with mental illness, cancer, and other chronic conditions.

DIGEST: CSHB 1190 would allow a physician to delegate the prescribing or ordering of a schedule II controlled substance as established by the Department of State Health Services commissioner as part of a narcotic drug treatment program.

A pharmacist practicing in a class A pharmacy could dispense a schedule II controlled substance that was prescribed by an advanced practice registered nurse or physician assistant to whom a physician had delegated prescribing and ordering authority. The prescriber would have to clearly note in the prescription records that the schedule II controlled substance was prescribed as part of the care provided:

- in a hospital facility-based practice for a patient staying in the hospital for 24 hours or longer or receiving services in the emergency department;
- in a hospital facility-based practice as part of the plan of care for a person's treatment who had a terminal illness and was receiving hospice treatment from a qualified hospital provider; or
- as part of a narcotic drug treatment program.

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.

SUBJECT: Establishing a prekindergarten class partnership grant program

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Buckley, Allen, Allison, Cunningham, Cody Harris, Hefner, K. King, Longoria, Talarico

3 nays — Harrison, Hinojosa, Schaefer

1 absent — Dutton

WITNESSES: For —Kimberly Kofron, Children at Risk; Sharon Perry, Kids R Kids; David Fincher, NCCC; Rebekah Calahan, Philanthropy Advocates; Chuck Cohn; Charles Zemanek (*Registered, but did not testify*: Kathryn Kizer, Access Education RRISD; Arianna Hampton, Austin PBS; Andrea Sparks, Buckner International; Cindy Najera, CCDF USA Travis County; Victoria Mannes, ChildCareGroup; Nadia Islam, City of San Antonio; Garry Jones, DFER TX; Kathlyn McHenry, Early Care and Education Consortium; Wendy Uptain, Early Matters; Sandy Dochen, Early Matters Greater Austin/United Way; Chandra Villanueva, Every Texan; Amanda Pecina, Kindercare Learning Centers; Brian Gutman, Learning Care Group; Molly Sprenger, Libertforkids; Christine Yanas, Methodist Healthcare Ministries; Melanie Rubin, North Texas Early Education Alliance; Cathy McHorse, Success By 6 Coalition Austin/ Travis County; Michael Lee, TARS; David Feigen, Texans Care for Children; Christine Broughal, Mara LaViola, Texans for Special Education Reform; Cody Summerville, Texas Association for the Education of Young Children; Justin Yancy, Texas Business Leadership Council; Stephanie Battaglia, Texas CASA; Paige Williams, Texas Classroom Teachers Association; Linda Litzinger, Texas Parent to Parent; Suzi Kennon, Texas PTA; Bryce Adams, Texas Public Charter Schools Association; Kelsey Streufert, Texas Restaurant Association; Dee Carney, Texas School Alliance; Laura Atlas Kravitz, Texas Women's Foundation; Brittney Taylor-Ross, TexProtects; Seth Winick, The Learning Experience, Childcare Network, and Primrose Schools; Iris Calles Acosta, Katie Magner, Todos Juntos; Samantha Brown, Bill Butler, United Way for Greater Austin; Ashley Harris, United Ways of Texas; Quynh-Huong Nguyen, Woori Juntos; and

21 individuals)

Against — (*Registered, but did not testify*: Seven individuals)

On — Bryan Daniel, Texas Workforce Commission (*Registered, but did not testify*: Kristin Brown, Lyford CISD; Eric Marin, Monica Martinez, Texas Education Agency; Carrie Griffith, Texas State Teachers Association)

BACKGROUND: Some have suggested that expanding eligibility for free prekindergarten classes offered through school-provider partnerships to more families could help save taxpayer money, reduce the need for school bonds, and provide more options for working parents and employers.

DIGEST: CSHB 1614 would require the commissioner of education to establish and administer a grant program to support school districts and open-enrollment charter schools in increasing partnerships with community-based child-care providers to provide prekindergarten classes. A district or charter school could apply for a grant in partnership with a community-based child-care provider. A district or charter school would be required to use grant money received under the program to fund enrollment of eligible children in prekindergarten classes through a partnership between the district or charter school and a community-based provider. A child would be eligible for enrollment in such a class using grant money if the child was at least three years old and received subsidized child-care services through the Texas Workforce Commission's child-care services program.

The commissioner could provide grants under the program for the enrollment in each school year of no more than 3,500 children in a prekindergarten class. The bill would require the Texas Education Agency to report annually to the Legislature regarding the number of children enrolled in a prekindergarten class.

The bill would apply beginning with the 2023-2024 school year.
The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

NOTES: According to the Legislative Budget Board, the bill would have negative impact to general revenue related funds of $20,218,364 through fiscal 2024-25.

SUBJECT: Allowing certain municipalities to hold local alcohol-related elections

COMMITTEE: Licensing & Administrative Procedures — favorable, without amendment

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

1 nay — Shaheen

WITNESSES: For — Brian England, City of Garland (*Registered, but did not testify*: Thomas Parkinson)

Against — None

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

BACKGROUND: Alcoholic Beverage Code sec. 251.742 establishes provisions for local option elections regarding the allowance of certain prohibited alcoholic beverages in commercial zones.

Some have suggested that allowing the City of Garland to hold a local option election to allow certain businesses to sell alcoholic beverages could help to attract more residents and visitors to local businesses and encourage economic development.

DIGEST: HB 1694 would add to the list of conditions to qualify a municipality for provisions under Alcoholic Beverage Code sec. 251.742. A municipality would qualify if it had a population of 240,000 or more, was located in two or more counties, and bordered a man-made lake that had a surface area of at least 20,000 acres.

The bill would allow a governing body of a qualifying municipality to adopt zoning and land use regulations applicable to a premises that sold alcoholic beverages in the boundaries of a designated zone.

The bill would take effect September 1, 2023.

SUBJECT: Establishing training and rules for bilingual education quality

COMMITTEE: Public Education — committee substitute recommended

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

2 nays — Harrison, Schaefer

1 absent — Dutton

WITNESSES: For — Lizdelia Pinon, IDRA (*Registered, but did not testify*: Monty Exter, Association of Texas Professional Educators; Steven Aleman, Disability Rights Texas; Rebekah Calahan, Philanthropy Advocates; Linda Litzinger, Texas Parent to Parent; Tiffany Patterson, United Ways of Texas; Susan Stewart)

Against — None

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

BACKGROUND: Some have suggested that the Texas Education Agency's current bilingual education program monitoring system could be improved by focusing more on program quality.

DIGEST: CSHB 2164 would require the commissioner of education, in collaboration with relevant stakeholders, to develop and make available training materials and other training resources to increase school administrators' understanding of and improve student outcomes for bilingual education programs and dual language immersion programs.

The Texas Education Agency (TEA) would be required to adopt rules providing for robust monitoring of bilingual education and special language programs. The rules would require TEA to:

- review bilingual education and special language program requirements to ensure those requirements prioritize meeting student needs and closing learning gaps for emergent students; and
- engage directly with school districts offering bilingual education or special language programs to improve outcomes for emergent bilingual students, including by identifying districts offering programs with deficiencies and providing technical assistance to those districts.

Such rules could include requiring districts that offer bilingual education or special language programs to provide additional information relevant to the programs through the Public Education Information Management System (PEIMS).

The bill would take effect September 1, 2023.

NOTES: According to the Legislative Budget Board, the cost to the state of the bill would be $793,049 for fiscal 2024-2025.

SUBJECT: Providing for noncharitable trusts without an ascertainable beneficiary

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Julie Johnson, Flores, Moody, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Davis

WITNESSES: For — Lois Ann Stanton, Osborne, Helman, Scott, Knisely & Stanton, LLP

Against — William Pargaman, Texas Real Estate and Probate Institute (*Registered, but did not testify*: Craig Hopper, Texas Real Estate and Probate Institute)

BACKGROUND: Some have suggested that additional enforcement and administration procedures are needed for noncharitable trusts without an ascertainable beneficiary.

DIGEST: CSHB 2333 would allow a trust to be created for a noncharitable purpose, including seeking economic or other benefits, without a definite or definitely ascertainable beneficiary.

The trust would have to be enforced by a person or persons appointed for that purpose. A trust enforcer would not be a beneficiary of the trust, but would have the rights of a beneficiary as provided by the bill and common law, or otherwise by the terms of the trust. A trust enforcer would exercise any authority granted under the terms of the trust or the provisions of CSHB 2333 as a fiduciary owing a duty to the trust and would be entitled to reasonable compensation. A trust enforcer could consent to, waive, object to, or petition a court regarding the trust.

Except as otherwise provided by the terms of the trust, if more than one person was acting as a trust enforcer, any action in that capacity would

have to be decided by the majority vote of trust enforcers. In case of a tie, the decision of the trustee would control. The terms of the trust could provide for the succession of a trust enforcer or an appointment process for a successor. If no person was serving as a trust enforcer for a trust created under the bill, a court would appoint one or more persons for that purpose.

Property of a trust created under the bill could be applied only to the trust's intended purpose, except to the extent a court found that the value of trust property exceeded the amount required for that purpose. Property found by a court not to be required for the trust's intended purpose would have to be distributed as provided by the terms of the trust or, if the trust did not provide for such distribution, to the settlor if living or to the settlor's successors in interest.

The bill would not apply to a trust for care of an animal.

CSHB 2313 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.

SUBJECT: Providing for employee stock ownership plans

COMMITTEE: International Relations & Economic Development — committee substitute recommended

VOTE: 8 ayes — Button, Ordaz, Bumgarner, Clardy, Hayes, Meza, Plesa, Shine

0 nays

1 absent — C. Morales

WITNESSES: For — Teddy Hirsch, Air Tractor Inc.; Mike Hart (*Registered, but did not testify*: Corbin Van Arsdale, AGC-Texas Building Branch; Geoffrey Tahuahua, Associated Builders and Contractors of Texas; Bill Kelly, Mayor's Office, City of Houston)

Against — J. R. Gonzales, Texas Association of Mexican American Chambers of Commerce (*Registered, but did not testify*: Pauline Anton, Texas Association of Mexican American Chambers of Commerce)

BACKGROUND: Some have suggested that professional corporations should be able to establish employee stock ownership plans in Texas similarly to other states.

DIGEST: CSHB 2389 would establish that an employee stock ownership plan, as defined by the U.S. Internal Revenue Code, established by a professional corporation, was an authorized person for the purposes of provisions related to professional corporations if:

- all of the voting trustees were professional individuals licensed to provide at least one category of the professional services described in the corporation's certificate of formation; and
- the ownership interests in the plan were not directly issued to any person other than the plan trust or a professional individual.

An employee stock ownership plan established by a professional corporation also would be an authorized person with respect to the corporation for purposes of provisions related to professional entities.

The bill would require the Texas Economic Development and Tourism Office to establish and maintain a website for employee-owned company information to serve as a source of:

- outreach and information dissemination for fostering increased awareness of employee stock ownership plans; and
- technical assistance for businesses in determining the feasibility of establishing an employee stock ownership plan.

The bill would take effect September 1, 2023.

SUBJECT: Prohibiting release of certain license holder information

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Hunter, Hernandez, Anchía, Dean, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

WITNESSES: For — Joseph McCoy, Texas Psychological Association (*Registered, but did not testify*: Nadia Islam, City of San Antonio; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; Anthony Kivela, Houston Police Retired Officer's Association; Liz Boyce, Texas Association Against Sexual Assault; Krista Del Gallo, Texas Council on Family Violence; John Wilkerson, Texas Municipal Police Association; AJ Louderback, Texas Sheriff's Regional Alliance; Thomas Parkinson;)

Against — None

On — (*Registered, but did not testify*: Nycia Deal, Health & Human Services Commission; Shawn Hall Lecuona, Kri'ah b'shalom)

BACKGROUND: Some have suggested that the state could reduce safety risks for survivors of family violence, sexual abuse, and trafficking by increasing protections for survivors' identifying information.

DIGEST: HB 3130 would prohibit a governmental body from selling or otherwise releasing the name and certain identifying information of a person who held, previously held, or was an applicant for a license issued by the governmental body and notified a government body on a form provided by the attorney general or government body that the person:

- was a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program or was a survivor of family violence, domestic violence, or sexual assault; and
- chose to restrict public access to the information.

The bill would require the attorney general, as soon as practicable after the bill's effective date, to prepare the form and make it available on its website, notify family violence shelter centers, victims of trafficking shelter centers, and sexual assault programs of the availability and purpose of the form.

A governmental body could redact certain information from a response to a request for a list or directory of current or former license holders or license applicants without the necessity of requesting a decision from the attorney general.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact on general revenue related funds of $1,445,792 through fiscal 2024-25.

SUBJECT: Requiring certain courts to refer eligible youth to diversion services

COMMITTEE: Youth Health & Safety, Select — committee substitute recommended

VOTE: 7 ayes — S. Thompson, Hull, Allison, Dutton, A. Johnson, T. King, Lozano

0 nays

2 absent — Capriglione, Landgraf

WITNESSES: For — J.R. Woolley, Justices of the Peace and Constables Association; Kathleen Person, TMCA (*Registered, but did not testify*: Omodele Ojomo, Autism Society of Texas; Rebecca Young Montgomery, Center for Transforming Lives; Jolene Sanders, Coalition of Texans with Disabilities; Shannon Doyle, National Association of Social Workers - Texas Chapter; Maggie Luna, Statewide Leadership Council; Kate Murphy, Texans Care for Children; Martin Martinez, Texas Appleseed; Sarah Crockett, Texas CASA; Alycia Castillo, Texas Center for Justice and Equity; Deanna L. Kuykendall, Texas Municipal Courts Association; Lauren Rose, Texas Network of Youth Services; Suzi Kennon, Texas PTA; Ashley Ford, The Arc of Texas; Grace Pankl)

Against — (*Registered, but did not testify*: Angela Hale, City of McKinney; Angela Hale, McKinney Chamber of Commerce; Nicole Ma, Quynh-Huong Nguyen, Steven Wu, Woori Juntos)

On — Megan LaVoie, Texas Judicial Council; Ryan Turner, Texas Judicial Council Youth Diversion Workgroup / Texas Municipal Courts Education Center (*Registered, but did not testify*: Eric Marin, TEA)

BACKGROUND: Some have suggested that courts should provide more opportunities for youth diversion services, as these early intervention and identification services can reduce recidivism and provide at-risk youth with needed resources.

DIGEST:

CSHB 3186 would require a child who was alleged to have engaged in conduct that constituted a misdemeanor punishable by fine-only, other than a traffic offense, to be diverted from formal criminal prosecution.

A child between 10 and 16 years old who was charged with or convicted of an offense under the jurisdiction of a justice or municipal court would be eligible to enter into a diversion agreement once each year. A child would not be eligible for diversion if the child previously had an unsuccessful diversion or if the state's attorney objected to the diversion.

Diversion strategies. CSHB 3186 would specify which programs, services, and court-ordered actions would constitute a diversion strategy. Such strategies would include a teen court program, a rehabilitation program, academic monitoring, community-based services, and counseling, among certain other programs and services.

A diversion strategy could be imposed under an intermediate diversion, a diversion by a justice or judge, or a system of graduated sanctions for certain school offenses.

Diversion agreement. A diversion agreement would be required to identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion. "Parent" would be defined as a person standing in parental relation, a managing conservator, or a custodian for the purposes of the bill.

Stated objectives in a diversion agreement would have to be measurable, realistic, and reasonable, and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community.

An agreement would be required to include terms, including one or more diversions required to be completed by the child and possible outcomes or consequences of a successful and an unsuccessful diversion. The agreement also would have to include verification that the child knowingly and voluntarily consented to participate in the diversion, along with certain other elements.

A charge could not be filed against a child if the child did not contest the charge, was eligible for diversion, and accepted the terms of the diversion agreement. If a charge was filed, it would have to be dismissed by the court. Under the bill, "charge" would mean a formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint.

Entering into a diversion agreement would extend the court's jurisdiction for the duration of the agreement.

Youth diversion coordinator. CSHB 3186 would authorize a court to designate a youth diversion coordinator to assist the court in:

- determining whether a child was eligible for diversion;
- employing a diversion strategy;
- presenting and maintaining diversion agreements;
- monitoring diversions;
- maintaining records relating to the success of diversions; and
- coordinating referrals to court.

The bill would specify the types of individuals and entities that could perform the responsibilities of a youth diversion coordinator.

Youth diversion plan. CSHB 3186 would require each justice and municipal court to adopt a youth diversion plan. A "youth diversion plan" would mean a written plan that described strategies that would be used to implement youth diversion.

A youth diversion plan could be created for a county, municipality, or an individual court within a county or municipality. Under CSHB 3186, a local government could enter into an agreement with one or more local governments to create a regional youth diversion plan. Such a plan could include an agreement with a service provider, including a governmental agency, political subdivision, open-enrollment charter school, nonprofit organization, or other entity that provided services to children or families. A diversion plan also could contain guidelines for disposition or diversion of a child's case by law enforcement.

CSHB 3186 would require a youth diversion plan to be maintained on file for public inspection in each justice and municipal court, including courts that collaborated with other counties or municipalities.

Intermediate diversion. If provided by a youth diversion plan, a youth diversion coordinator or juvenile case manager would be required to advise the child and the child's parents before a case was filed that the case could be diverted for a maximum of 180 days if:

- the child was eligible for diversion under this bill's provisions;
- diversion was in the best interest of the child and promoted the long-term safety of the community;
- the child and parent consented to diversion knowing that diversion was optional; and
- the child and parent were informed that they could terminate the diversion at any time and if terminated, the case would be referred to court.

The terms of a diversion agreement would have to be in writing. If a child successfully complied with the terms of the agreement, the case would be closed and reported as successful to the court. If a child did not comply with the agreement, the case would be referred to court for a non-adversarial hearing. The bill would specify procedures for such a hearing.

Diversion by justice or judge. If a charge involving a child who was eligible for diversion was filed with a court, a justice or judge would be required to divert the case without the child having to enter a plea if the child did not contest the charge. If the child contested the charge, a justice or judge would be required to divert the case at the conclusion of a trial on a finding of guilt without entering a judgement of conviction.

Other provisions relating to intermediate diversion, including the duration of a diversion and the procedures associated with a successful or unsuccessful diversion, also would apply to a diversion by a justice or judge.

Other court-related procedures. In a case involving a child who was eligible for diversion that resulted in a trial, a justice or municipal court would be required to provide the child and the child's parents the opportunity to accept placement in diversion instead of entering an adjudication of guilt, if the court determined that the evidence presented in a bench trial would support a finding of guilt or if a jury returned a verdict of guilt. If the child and parents accepted, the court would be required to place the child in diversion. If the child and parents declined the opportunity for diversion placement, the court would find the child guilty and proceed to sentencing. If diversion was not required, the judge would be required to allow a defendant who was a child to perform community service or receive tutoring instead of paying the fine and costs.

CSHB 3186 also would extend the applicability of provisions relating to community service orders in a justice and municipal court to a child under youth diversion.

CSHB 3186 would require a justice or municipal court to maintain records and statistics related to diversion. The bill would provide for expunction of records relating to a diversion on a child's 18th birthday.

The bill would allow certain clerks to collect a $50 administrative fee from a child's parents for the cost of diverting a child's case.

Juvenile case managers. The bill would amend certain provisions relating to juvenile case managers, specifying that certain governmental entities could contract for a juvenile case manager who could provide services involving youth diversion. CSHB 3186 would amend provisions relating to the payment of and reimbursement of costs for employing or contracting with a juvenile case manager.

Other provisions. CSHB 3186 would include funding for youth diversion as an authorized use of certain child safety funds. The bill also would extend the applicability of provisions relating to the juvenile delinquency prevention fund to municipalities and would authorize the use of money in that fund for youth diversion.

CSHB 3186 would extend eligibility for youth intervention services provided by the Department of Family and Protective Services to a child who had been diverted under the bill's provisions.

The bill also would require each judge of a court with jurisdiction to handle cases relating to a child alleged of a fine-only misdemeanor offense to complete a course of instruction related to youth diversion and issues relevant to child welfare, including issues relating mental health and children with disabilities.

The bill would change the name of "the local truancy prevention and diversion fund" to "the local youth diversion fund."

Rulemaking authority. A court or local government would be authorized to adopt rules to coordinate services under a youth diversion plan or to implement the bill's provisions.

The bill would take effect January 1, 2024, and would apply only to an offense committed on or after January 1, 2025. Each justice and municipal court would be required to implement a youth diversion plan no later than January 1, 2025.

SUBJECT: Revising height limit for Darrell K Royal-Texas Memorial Stadium

COMMITTEE: Higher Education — committee substitute recommended

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

0 nays

2 absent — Burrows, Raney

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

Against — None

On — (*Registered, but did not testify*: Brent Stringfellow, UT Austin)

BACKGROUND: Government Code sec. 3151.003 restricts the height of the Darrell K Royal-Texas Memorial Stadium and related improvements to 666 feet above sea level for the purposes of preserving a view of the Capitol.

Some have suggested that the height restrictions for the Darrell K Royal-Texas Memorial Stadium should be updated due to expansion and modernization of the north end of the stadium.

DIGEST: CSHB 2415 would allow the "north end" of the Darrell K Royal-Texas Memorial Stadium or a related improvement to the north end to exceed 666 feet above sea level. The bill would provide for the specific coordinates that would constitute the "north end of the stadium."

The bill would take effect September 1, 2023.