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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 23, 2023
88th Legislature, Number 71
The House convenes at 10 a.m.
Part Three

Four bills are on the Major State Calendar, three resolutions are on the Constitutional Amendments Calendar, and 92 bills are on the General State Calendar for second reading consideration today. The table of contents for Part Three of today's *Daily Floor Report* begins on the following page.

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Gary VanDeaver
Chairman
88(R) - 71

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 23, 2023

88th Legislature, Number 71

Part 3

SUBJECT: Revising provisions on cottage food production operation

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Klick, Campos, Collier, Jetton, A. Johnson, J. Jones, V. Jones, Oliverson, Price, Smith, Tinderholt

0 nays

SENATE VOTE: On final passage (April 12) — 31 - 0

WITNESSES: For — Judith McGeary, Farm and Ranch Freedom Alliance; Jada Lucero (*Registered, but did not testify*: Heather Sheffield)

Against — Christopher Sparks, City of Houston, Houston Health Department (*Registered, but did not testify*: Denee Barsalou)

On — (*Registered, but did not testify*: Timothy Stevenson, Department of State Health Services)

BACKGROUND: Some have suggested that revising certain provisions that limit cottage food producers could support the growing cottage food industry and help producers.

DIGEST: CSSB 829 would include in the definition of "cottage food production operation" a nonprofit organization that produced at the home of an individual who was a director or officer of the nonprofit. The bill would specify that cottage-produced baked goods could not contain meat, poultry, shellfish, or fish.

The annual gross income of a cottage food production operation would be capped at $100,000 or less from sales, rather than $50,000.

The bill would allow these production operations to sell foods directly to a cottage food vendor. "Cottage food vendor" would be defined as a person who had a contractual relationship with a cottage food production operation and sold food, except baked goods, on behalf of the production

operation directly to consumers. A cottage food production operation could sell food, except baked goods, to a cottage food vendor at wholesale.

A cottage food vendor could sell food, except baked goods, directly to consumers at a farmers' market, farm stand, food service establishment, or any retail store. The vendor would be required to display in a sign that said "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION." A cottage food vendor that purchased food from a cottage food production operation at wholesale would be required to register with the Department of State Health Services (DSHS). The executive commissioner of the Health and Human Services Commission (HHSC) could adopt rules to implement this provision.

A cottage food production operation that sold baked goods to consumers would be required to store and deliver the food at the air temperature necessary to prevent bacteria growth that could cause human illness. A local government authority, including a local health department, could not require a cottage food production operation to obtain any type of license or permit or pay any fee to sell food directly to a consumer or cottage food vendor. A local government authority, including a local health department, also could not employ or continue to employ a person who knowingly required or attempted to require a cottage food production operation to obtain a license or permit.

The bill would specify that food labels required to be used by cottage food production operations would have to include the words "prepared on" immediately followed by the date on which the food was prepared and the statement, "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION." A cottage food production operation would not be required to include the address of the operation on food labels if the operation registered with DSHS.

A cottage food production operation that sold time and temperature control for safety baked goods would be required to include on the label of the food, or on an invoice or receipt provided with the food, "SAFE

HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food refrigerated or frozen until the food is prepared for consumption."

The bill would take effect September 1, 2023.

SUBJECT: Authorizing the attorney general's defense of a district or county attorney

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

1 absent — S. Thompson

SENATE VOTE: On final passage (April 11) — 28 - 3

WITNESSES: For — (*Registered, but did not testify*: Tom Glass, Texas Constitutional Enforcement; Lucy Trainor)

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

On — (*Registered, but did not testify*: Shawn Hall Lecuona, Almighty; Robert Kepple, Texas District and County Attorneys Association)

BACKGROUND: Some have suggested that statute should be amended to establish the attorney general's authority to defend a state district attorney or county attorney in federal court actions related to attorneys' enforcement of state law.

DIGEST: SB 950 would authorize the attorney general to defend a state district attorney or a county attorney in an action in a federal court if:

- the district or county attorney was a defendant because of the attorney's office;
- the cause of action was related to the enforcement of a state statute; and
- the attorney requested the attorney general's assistance.

The bill would take effect September 1, 2023, and would apply only to a court action filed on or after that date.

SUBJECT: Increasing the criminal penalty for purchasing or selling human organs

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Cook, Darby, Leach, C. Morales, Schatzline

0 nays

3 absent — Bhojani, Bowers, Harrison

SENATE VOTE: On final passage (May 3) — 31 - 0

WITNESSES: For — (*Registered, but did not testify*: AJ Louderback, Texas Sheriffs Regional Alliance)

Against — None

BACKGROUND: Some have suggested that the current penalty for purchasing or selling human organs should be increased.

DIGEST: SB 436 would increase the penalty for the offense of purchasing and selling human organs from a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

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

SUBJECT: Expanding eligibility for certain career and technology education subsidies

COMMITTEE: Public Education — favorable, without amendment

VOTE: 13 ayes — Buckley, Allen, Allison, Cunningham, Dutton, Cody Harris, Harrison, Hefner, Hinojosa, K. King, Longoria, Schaefer, Talarico

0 nays

SENATE VOTE: On final passage (April 27) — 30 - 01

WITNESSES: For — (*Registered, but did not testify*: Lesley Rivas, Mexican American School Boards Association; Jean Mayer, Pflugerville ISD; Gabriel Grantham, Texas 2036; Crystal White, Texas Association of Community Schools; Raif Calvert, Texas Association of School Boards; Suzi Kennon, Texas PTA; Bryce Adams, Texas Public Charter Schools Association; Dee Carney, Texas School Alliance)

Against — None

On — (*Registered, but did not testify*: Eric Marin, Monica Martinez, DeMarco Pitre, Texas Education Agency)

BACKGROUND: Education Code sec. 29.190 establishes subsidies for certification examinations for career and technology education programs for which teachers and students may be eligible. Under this section, a student cannot receive more than one subsidy.

Some have suggested that extending examination fee subsidies for industry-based certification and career and technology training could allow more students and teachers to earn entry-level certification.

DIGEST: SB 1087 would amend Education Code sec. 29.190 to establish that a student could be eligible for more than one relevant subsidy and include conforming language throughout to reflect the revision. The bill also would specify that a teacher was eligible for a subsidy if the teacher

passed a certification examination related to career and technology education, rather than cybersecurity.

The bill would take effect September 1, 2023.

SUBJECT: Revising statute governing state and local government information security

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage (April 17) — 31 - 0

WITNESSES: None *(considered in a formal meeting on May 12)*

BACKGROUND: Some have suggested that updating provisions related to the state's information technology planning and tools could improve the cybersecurity of state agencies and facilitate better resource sharing.

DIGEST: SB 1204 would revise provisions governing the sharing of information resources between state agencies and with the Department of Information Resources (DIR).

State agency information security assessment. The bill would remove the inclusion of a state agency's data governance program in the agency's information security assessment required to be conducted every two years. The bill would require each state agency to complete the information security assessment in consultation with DIR or the DIR-selected vendor and submit the results of the assessment to DIR.

The bill would remove provisions requiring DIR to establish the requirements for the assessment. The bill also would repeal provisions requiring an agency to report the results of the information security assessment to DIR and to other entities on request.

State agency information technology infrastructure. As part of DIR's collection of information on the status and condition of each state agency's information technology infrastructure, DIR would be required to collect the results of the information security assessment. Rather than providing

the information to DIR according to a schedule that DIR determined, each state agency would be required to provide the information by June 1 of each even-numbered year.

The bill would require DIR to assign to each state agency, other than an institution of higher education, an information security rating of average, above average, or below average based on the agency's information security risk profile. In assigning this rating, DIR would consider:

- the information the agency provided regarding the status and condition of the agency's information technology infrastructure;
- the agency's comprehensive information security risk position relative to the agency's risk environment; and
- any additional document or information DIR requested.

DIR would be required to develop options and make recommendations for improvements in the information security maturity of any state agency assigned an information security rating of below average. DIR could assist any state agency in determining whether additional security measures would increase the agency's information security maturity.

DIR could audit the information security and technology of any state agency assigned an information security rating or contract with a vendor to perform the audit. DIR would have to make the results of an audit available on request of the governor, chair of the House appropriations committee, chair of the Senate finance committee, speaker of the House of Representatives, lieutenant governor, and staff of the Legislative Budget Board (LBB).

In addition to submitting a consolidated report of the information submitted by state agencies to the above entities, DIR would need to submit to those entities any DIR recommendations relevant to and necessary for improving the state's information technology infrastructure and information security.

The bill would repeal provisions classifying the consolidated report as public information and requiring the report to be released or made available to the public on request, with certain exceptions. The bill would

require DIR to compile a summary of the consolidated report and make the summary available to the public. The summary could not disclose any confidential information. The consolidated report and all information a state agency submitted to substantiate or otherwise related to the report would be confidential and not subject to disclosure. The state agency or DIR could redact or withhold information as confidential without requesting a decision from the attorney general.

Following review of the consolidated report, LBB could direct DIR to select for participation in a statewide technology center any state agency assigned an information security rating. The bill would require DIR to notify each selected state agency of its selection. DIR would not be required to conduct a cost and requirements analysis for a selected state agency. These provisions would expire September 1, 2027.

Information sharing and analysis organization. The bill would specify that DIR's current information sharing and analysis organization was an intrastate organization. The bill also would authorize DIR to establish an interstate information sharing and analysis organization to provide a forum for states to share information regarding cybersecurity threats, best practices, and remediation strategies.

Digital signatures. The bill would specify that, unless expressly prohibited by other law or a rule adopted by the state agency, a state agency would be required to accept a digital signature included in any communication or payment electronically delivered to the state agency.

Designated information security officer. An information security officer designated by each state agency could serve as a joint information security officer by two or more state agencies. DIR would have to approve the joint designation.

Technology improvement and modernization fund. The bill would allow money in the technology improvement and modernization fund to be used to mitigate a breach or suspected breach of system security or the introduction of ransomware into a computer, computer network, or computer system at a state agency. Money in the fund could not be used to pay a person who committed the offense of electronic data tampering.

Guidance on use of distributed ledger technology. DIR would be required to develop and disseminate guidance for the use of distributed ledger technology, including blockchain, among state agencies. The guidance would need to include a framework or model for deciding if distributed ledger technology was appropriate for meeting a state agency's needs. The guidance could include examples of potential uses of distributed ledger technology by an agency, sample procurement and contractual language, and information on educational resources for agencies on distributed ledger technology. DIR would be required to develop and disseminate the guidance and decision model by December 1, 2023.

Peer-to-peer payment systems. The bill would allow a state agency or local government that used the state electronic Internet portal to use peer-to-peer payments for point-of-sale, telephone, and mail transactions. DIR would be required to identify at least three commonly used peer-to-peer payment systems that provided for data privacy and financial security and post a list containing those systems in a conspicuous location on its website. The bill would require DIR to biennially review and update the list as necessary. The bill would define "peer-to-peer payment system" as a digital non-credit card system used for transferring funds from one party to another.

Marketing of services. The bill would authorize DIR to use appropriated money to market to state agencies and local governments shared information resources technology services offered by DIR, including data center services, disaster recovery services, and cybersecurity services. Such an expenditure would have to be approved by the executive director.

State agency strategic plans. Except as otherwise modified by the Legislative Budget Board or the governor, DIR-prepared instructions would have to require each state agency's strategic plan to include a description of customer service technology, including telephone systems and websites, that improved customer service performance.

Information technology modernization plan. As part of each state agency's strategic plan, a state agency would have to include an

information technology modernization plan that outlined the manner in which the agency intended to transition its information technology and data-related services and capabilities into a more modern, integrated, secure, and effective technological environment. DIR could provide a template for the information technology modernization plan.

The bill would take effect September 1, 2023.

SUBJECT: Requiring studies of buildings and facilities owned or leased by the state

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

1 absent — S. Thompson

SENATE VOTE: On final passage (April 20) — 30 - 1

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club (*Registered, but did not testify*: Kenneth Flippin, TEXAS Chapter US Green Building Council; Rod Bordelon, Texas Public Policy Foundation; Lucy Trainor)

Against — None

On — (*Registered, but did not testify*: Shawn Hall Lecuona, Almighty)

BACKGROUND: Concerns have been raised that due to temporary remote work policies adopted by state agencies during the COVID-19 pandemic, some state office buildings may be not be fully occupied. Some have suggested that the Legislature should have information about the occupational statuses, capacities, and costs of state office buildings.

DIGEST: SB 1119 would require the Legislative Budget Board (LBB), every six years, to study and report to the Legislature:

- how much money the state was spending on leased space for state agencies;
- the possibilities of personnel out of leased space into existing state-owned space;
- any efficiencies or cost savings that could be achieved by consolidating personnel and resources into existing state-owned

space, or if no state-owned space was available, into existing leased space;
- the impact of any such consolidation on the state's insurable assets; and
- the potential benefits of maintaining a comprehensive, regularly updated database of all buildings and facilities owned, leased, or otherwise occupied by the state.

SB 1119 would also require LBB to conduct an interim study on the buildings and facilities owned, leased, or otherwise occupied by the state and develop a statewide strategy to ensure that the buildings and facilities were adequately utilized. LBB would collect information required by the bill from each state agency and institution of higher education that had charge and control of a building or facility and require each agency and institution to submit the information by a date prescribed by the board. The bill would prescribe the information to be collected for each building or facility, including information related to square footage, occupancy, and utility expenses.

On LBB's request, the Texas Facilities Commission (TFC) would be required to provide certain clarifying information, including information on buildings that housed multiple state agencies. On request by TFC or the State Office of Risk Management, a state agency would be required to provide its telework policies. TFC and the State Office of Risk Management would be required to coordinate to reduce duplication of efforts.

By June 1, 2024, LBB or a state agency designated by the board would have to consolidate information collected under the interim study and enter the information into a single database accessible to members of the Legislature or their designees and the executive heads of state agencies or higher education institutions or their designees. LBB would have to conduct the study and report findings and recommendations to the Legislature no later than September 1, 2024.

LBB, the State Office of Risk Management, and TFC would be required to produce maps identifying the locations of the buildings and facilities owned, leased, or otherwise occupied by state agencies and institutions of

higher education in the state. The information collected and produced for the interim study would be exempt from disclosure under certain provisions of the Government Code and the Labor Code. LBB could consolidate the study and report with any report required of the board regarding the allocation and use of space by state agencies.

Based on the studies required by SB 1119, each state agency would be required to identify opportunities for the consolidation of personnel and resources into state-owned space, or if state-owned space was not available, into space leased by the state.

SB 1119 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 expire September 1, 2025.

SUBJECT: Revising certain provisions on vehicle registration, titling, and licensing

COMMITTEE: Transportation — favorable, without amendment

VOTE: 11 ayes — Canales, Raney, Ashby, Davis, Gámez, Caroline Harris, Landgraf, Lozano, Lujan, Patterson, Romero

0 nays

2 absent — Ordaz, Perez

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

WITNESSES: None *(considered in a formal meeting on May 11)*

BACKGROUND: Some have suggested that revisions to the Transportation Code are needed to address certain irregularities, contradictions, and outdated provisions relating to vehicle titling, registration, and licensing practices.

DIGEST: SB 1182 would revise the Transportation Code to reflect that 72-hour or 144-hour permits, along with one-trip or 30-day permits, were considered temporary registration permits. A 72- or 144-hour temporary registration permit would have to be carried in the vehicle at all times during the period that the permit was valid. Vehicles issued an applicable 30-day permit would be subject to certain provisions on vehicle inspections and emissions.

The bill would revise provisions on the area of a vehicle where the temporary permit would have to be displayed, and would specify that the registration receipt would have to be carried in the vehicle in a manner prescribed by the Texas Department of Motor Vehicles (TxDMV).

TxDMV could issue distinguishing license plates to a farm trailer or semitrailer with a gross weight of 4,000 pounds or less if it was used only temporarily to transport certain agricultural products or related supplies. An owner would not be required to register certain farm vehicles that were operated only temporarily on highways.

Recipients of the Legion of Merit medal would be exempt from the requirement to pay a vehicle registration fee for one set of the relevant plates. The bill would set the fee for the issuance of a set of professional firefighter specialty license plates at $30 and would remove specialty license plate fees for:

- gold star mother, father, spouse or family member specialty license plates;
- certain firefighter specialty license plates; and
- rental trailer specialty license plates.

The bill would make conforming changes throughout the Transportation Code to reflect statutory changes to certain agencies or accounts. The provision of current statute relating to the issuance of honorary consul specialty license plates would be repealed.

To the extent of any conflict, the bill would prevail over another bill of the 88th Legislature, Regular Session, 2023, relating to non-substantive additions to and corrections in enacted codes.

The bill would take effect September 1, 2023.

SUBJECT: Expanding conduct constituting a first-degree felony of trafficking

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Cook, Darby, Leach, C. Morales, Schatzline

0 nays

3 absent — Bhojani, Bowers, Harrison

SENATE VOTE: On final passage (May 3) — 31 - 0

WITNESSES: For — (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Chris Jones, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; Dallas Reed, Texas Municipal Police Association; Linda Litzinger, Texas Parent to Parent; AJ Louderback, Texas Sheriffs Regional Alliance; Thomas Parkinson)

Against — None

BACKGROUND: Concerns have been raised that traffickers may recruit victims from jails or correctional facilities, where individuals are isolated and vulnerable.

DIGEST: SB 1011 would include recruiting, enticing, or obtaining the trafficked person from a correctional facility while the trafficked person was confined in the facility among conduct constituting a first-degree felony of trafficking of persons.

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

SUBJECT: Exempting certain information from public information law

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

2 absent — Guillen, S. Thompson

SENATE VOTE: On final passage (April 27) — 31 - 0

WITNESSES: For — (*Registered, but did not testify*: Nadia Islam, City of San Antonio; AJ Louderback, Texas Sheriffs' Regional Alliance; Richard Bohnert; Erika Lenk-Hatfield)

Against — None

BACKGROUND: Some have suggested that exempting information related to fraud deterrence and counterterrorism from state information disclosure requirements would prevent bad actors from using such information to defraud state agencies.

DIGEST: SB 1219 would specify that information in the custody of a governmental body that related to fraud detection and deterrence measures or counterterrorism measures would be confidential and excepted from provisions requiring the availability of public information.

The bill would take effect September 1, 2023.

SUBJECT: Penalizing an unauthorized vote by a delegate to an Article V convention

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 7 ayes — Hunter, Dean, Geren, Metcalf, Slawson, Smithee, Spiller

3 nays — Hernandez, Anchía, Turner

2 absent — Guillen, S. Thompson

1 present not voting — Raymond

SENATE VOTE: On final passage (March 20) — 25 - 6

WITNESSES: For — (*Registered, but did not testify*: Henry Bohnert; Richard Bohnert; John Van Compernolle)

Against — (*Registered, but did not testify*: Robert Canright, Texas Eagle Forum; Susana Carranza)

On — Fred Costa; Charles Moncrief

BACKGROUND: Some have suggested that provisions are needed to discourage delegates of an Article V convention to amend the U.S. Constitution from making unauthorized votes.

DIGEST: SB 610 would create a state-jail felony offense (180 days to two years in a state jail and an optional fine of up to $10,000) for a delegate or alternate delegate to a federal Article V convention who knowingly cast an unauthorized vote. A judge that granted community supervision to a defendant convicted of such an offense would have to require as a condition of community supervision that the defendant submit to at least 10 days of confinement in county jail. If a sentence of confinement was imposed on the revocation of community supervision, the term of confinement could not be credited toward the completion of the sentence.

The bill would take effect September 1, 2023.

SUBJECT: Requiring a report on gifted and talented programs in public schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Buckley, Allen, Allison, Cunningham, Dutton, Harrison, Hefner, Hinojosa, K. King, Longoria, Schaefer, Talarico

0 nays

1 absent — Cody Harris

SENATE VOTE: On final passage (May 3) —31-0

WITNESSES: None (*considered in a formal meeting on May 18*)

BACKGROUND: Some have suggested that requiring school districts to list certain information and comparative statistics regarding gifted and talented programs could increase program transparency.

DIGEST: SB 2403 would require each school district to include the following information in the district's Public Education Information Management System (PEIMS) report:

- the name and contact information of the district administrator responsible for ensuring that the district was in compliance with certain PEIMS reporting requirements;
- whether the district had used data from an entire grade level to identify gifted and talented students; and
- if applicable, the grade levels for which the district identified gifted and talented students.

The comparison report provided by the Texas Education Agency (TEA) would be required to include a comparison of college, career, and military readiness achievement between students served in a program for gifted and talented students and students in other programs.

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.

SUBJECT: Allowing the Harris County Hospital District to employ peace officers

COMMITTEE: County Affairs — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage (April 27) — 31 - 0

WITNESSES: None *(considered in a formal meeting on May 11)*

BACKGROUND: Some have suggested that allowing the Harris County Hospital District to employ peace officers would help alleviate the shortage of available law enforcement and prevent workplace violence experienced by hospital employees.

DIGEST: SB 1449 would authorize the Harris County Hospital District to employ and commission peace officers for the district and would define the individuals who would qualify as "peace officers" eligible for commission by the board of managers.

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: Prohibiting motor vehicle dealers from engaging in forced financing

COMMITTEE: Business & Industry — favorable, without amendment

VOTE: 9 ayes — Longoria, Vasut, Cole, Frazier, J. González, Hinojosa, Isaac, Lambert, Neave Criado

0 nays

SENATE VOTE: On final passage (April 12) — 26 - 04

WITNESSES: For — Chris Turnley, Gilianne Carter, Texas Credit Union Association, Cornerstone League; Suzanne Yashewski, Texas Credit Union Association (*Registered, but did not testify*: Melodie Durst, Credit Union Coalition of Texas; Neftali Partida, Gulf States Toyota; Stephen Scurlock, Independent Bankers Association of Texas; Bill Kelly, Mayor's Office, City of Houston; Celeste Embrey, Texas Bankers Association; Robert Howden, Texas Credit Union Association)

Against — Robert Braziel, Texas Automobile Dealers Association

On — Matthew Nance, Office of Consumer Credit Commissioner

BACKGROUND: Concerns have been raised that some motor vehicle dealers may be participating in forced financing, where the sale of a motor vehicle is conditioned on accepting dealer-offered financing and the use of bank loans to pay for the vehicle is not allowed.

DIGEST: SB 1464 would prohibit a retail seller from increasing the sale price of a motor vehicle for a prospective buyer and from prohibiting a prospective buyer from paying the sale price at the time of sale if the buyer was purchasing the vehicle with:

- the prospective buyer's own money; or
- a loan from a third-party lender who was neither the retail seller nor affiliated with the retail seller.

A retail seller could not make a false or misleading representation that was inconsistent with the bill.

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

SUBJECT: Revising certain provisions on groundwater conservation districts

COMMITTEE: Natural Resources — committee substitute recommended

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

0 nays

1 absent — Metcalf

SENATE VOTE: On final passage (March 16) — 30 - 0

WITNESSES: None *(considered in a formal meeting on May 18)*

BACKGROUND: Some have suggested that various provisions of current statutes governing groundwater conservation districts are in need of updates, including certain definitions, petition methods, inquiry processes, fee structures, and fund usage.

DIGEST: CSSB 156 would revise various provisions on the regulation and management of groundwater conservation districts.

Definitions. CSSB 156 would add or amend the following definitions relating to the governing of groundwater conservation districts:

- "conservation" would mean the practice of reducing the consumption, loss, or waste of water, improving the efficiency in the use of water, or increasing the recycling and reuse of water;
- "waste" would include the production or use of groundwater in amounts exceeding the amount reasonably necessary, aside from certain agricultural irrigation uses, and drilling, completing, maintaining, or operating a well not in compliance with applicable provisions governing water well drillers;
- "use for a beneficial purpose" would mean the nonwasteful use of groundwater for the specified purposes in statute; and

- "modeled sustained groundwater pumping" would mean the maximum amount of groundwater that the executive administrator of the Texas Water Development Board (TWDB) determined could be produced annually in perpetuity from an aquifer.

Petitions to change rules. A person with a real property interest in groundwater could petition the applicable groundwater conservation district to adopt a new rule or modify a previously adopted rule under relevant statutes. The bill would provide for certain petition requirements including action deadlines for districts. The district would have to adopt rules to implement the provisions by December 1, 2023.

Management plans. A district's management plan would be required to include the most recently approved desired future conditions and the amount of modeled available groundwater corresponding to the most recently approved desired future conditions. The bill would require a district to amend a management plan before the second anniversary of the adoption of the included desired future conditions. If a petition challenged the reasonableness of a desired future condition, the TWDB executive administrator would be required to consider the management plan administratively complete if it included certain required information on the desired future conditions. The provisions would apply only to such a petition filed on or after the bill's effective date.

Modeled sustained groundwater pumping. The bill would require districts to consider modeled sustained groundwater pumping, if calculated by the TWDB executive administrator, before voting on the proposed desired future conditions of aquifers within the relevant management area. The executive administrator would be prohibited from calculating the modeled sustained groundwater pumping for certain aquifers that could qualify under federal tax law for a cost depletion deduction for the groundwater withdrawn from the aquifer for irrigation purposes.

Permitting. Before granting or denying certain permits, districts would be required to consider whether the proposed use of water unreasonably affected wells that were exempt from the requirement to obtain a permit under applicable statutes or rules. Regarding the permitting of certain

wells, a district that had adopted rules that required wells to be spaced a certain distance from other wells under applicable statute would have to adopt rules requiring that notice of an application for a permit to drill a well or increase the production capacity of an existing well be provided to each landowner whose:

- land was located wholly or partly within the spacing distances from other wells; and
- right to obtain a permit for a well of a certain size or location under the spacing rules of the district would be affected if the district approved the application.

Such a notice would not be required for certain replacement or emergency wells, or if the notice was to be provided to the lessors of the right to produce groundwater from a property where the applicant for the permit was the lessee. A notice also would not be required if the district posted certain application information at its main office and on its website. The permitting provisions would apply only to an application for such a permit submitted on or after the bill's effective date.

Fees. The bill would revise the rate of an export fee or surcharge a district could impose for the transfer of groundwater outside the district’s boundaries. For a tax-based district, the bill would replace the current maximum export fee set at the equivalent of the district's tax rate per hundred dollars of valuation for each thousand gallons of exported water or 2.5 cents per thousand gallons of water, as applicable, with a maximum of 20 cents for each thousand gallons of exported water. For a fee-based district, the bill would establish a rate maximum at the greater of a 50 percent surcharge or 20 cents for each thousand gallons of exported water, in addition to the production fee.

Effective January 1, 2024, the maximum rate of a relevant export fee or surcharge would increase by 3 percent each calendar year. Such fees or surcharges, or increases in either, would not be valid unless approved by the district’s board after a public hearing. The bill would authorize the use of funds obtained from certain district fees for maintaining the operability of wells significantly affected by groundwater development.

Petition review panel. The bill would specify that a review panel appointed by the Texas Commission on Environmental Quality (TCEQ) to address district inquiry petitions would be considered an advisory body to TCEQ and not a governmental body under applicable statute. Though a member of the review panel would not be entitled to compensation for service, TCEQ would be required to reimburse a member for actual expenses incurred while engaging in activities on behalf of the panel, subject to certain conditions. Records and documents of the review panel's recording secretary would have to be provided to TCEQ's executive director and would be considered public information under state law.

The executive director of TCEQ would be required to provide notice of a public hearing or meeting of the review panel to certain interested parties in a manner specified by the bill. Written requests to the relevant executive administrator for technical assistance on a petition would be subject to certain deadlines under the bill. The office of public interest counsel would have to provide legal advice and assistance to the review panel on request from a member of the panel, but the office could not otherwise participate as a party in an inquiry and the office would have no duty or responsibility to represent the public interest or otherwise in such an inquiry. The provisions would apply only to a related petition filed on or after the bill's effective date.

Artesian wells. CSSB 156 would establish that statutory water rights provisions relating to artesian wells, except for those specified in the bill, would apply only to a well drilled outside the boundaries of a groundwater conservation district or other relevant conservation and reclamation district. The bill would repeal certain provisions concerning artesian well drilling, including provisions on:

- a prohibition on well drilling;
- drilling records;
- new well drilling reports; and
- an annual well drilling report.

The bill would take effect September 1, 2023.

SUBJECT: Requiring an audit for state-funded homelessness programs

COMMITTEE: State Affairs — favorable, without amendment

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

2 nays — S. Thompson, Turner

3 absent — Hernandez, Anchía, Raymond

SENATE VOTE: On final passage (May 8) — 31 - 0

WITNESSES: For — Lisa Hugman; Cleo Petricek (*Registered, but did not testify*: Mindy Ellmer, Haven for Hope; Hannah Gill, NAMI Texas; Jose Melendez, Texas Public Policy Foundation)

Against — Eric Samuels, Texas Homeless Network; Mark Smith, The Coalition for the Homeless of Houston/Harris County (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Tanya Lavelle, Disability Rights Texas; Walter Moreau, Foundation Communities; Paul Sugg, Harris County Commissioners Court; Ben Martin, Texas Housers)

BACKGROUND: Some have suggested that establishing a process for efficiency audits of state programs aimed at helping the homeless population could increase the effectiveness of such programs and ensure compliance with program requirements.

DIGEST: SB 1803 would require the state auditor, in each even-numbered year, to require an audit regarding the effectiveness and efficiency of all homelessness services that were provided by the Texas Department of Housing and Community Affairs, the Health and Human Services Commission, the Department of Family and Protective Services, the Texas Education Agency, the Texas Workforce Commission, the Texas Veterans Commission, the Texas Department of Criminal Justice, and any other state agency selected by the state auditor.

The audit would be required to be conducted starting in 2026. These provisions would expire January 1, 2027.

By March 1 of the year an audit was required, the state auditor would be required to engage an independent external auditor to conduct the audit. The external auditor could not be under the direction of any agency subject to the audit. The state auditor would be required to supervise the external auditor to ensure that the audit was conducted in accordance with the requirements of the bill.

The audit would be required to:

- examine all state resources used in providing services to homeless individuals, including financial resources, employees, and infrastructure;
- assess the effectiveness and efficiency of the agencies being audited, their programs, and participating community service providers in helping homeless individuals advance toward self-sufficiency, including an assessment of various beneficiary statistics listed in the bill;
- make recommendations for eliminating poorly performing programs, consolidating overlapping programs, ending contractual or funding relationships with poorly performing community service providers, and reallocating state resources to ensure that the outcomes related to the statistics in the assessment were achieved in the most effective and economical manner; and
- based on the effectiveness at achieving such outcomes, rate each applicable agency, program, or community service provider as "unsatisfactory," "satisfactory," or "exemplary."

Within 90 days after the date the auditor was engaged, the external auditor would be required to complete the audit and present its results and recommendations to the state auditor and the heads of the agencies subject to the audit. By November 1 of the year the audit was completed, the state auditor would be required to prepare and submit to the governor, the speaker of the House, the lieutenant governor, and the Legislative Budget Board a report on the audit and recommendations for improvement in the agencies, programs, and community service providers assessed.

The bill would require the full audit and state auditor's report to be published on the state auditor's website. The audit would be paid for with existing resources allocated for the purpose of the audit.

The bill would take effect September 1, 2023.

SUBJECT: Prohibiting fines for violations of certain terms of service agreements

COMMITTEE: Pensions, Investments & Financial Services — favorable, without amendment

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

0 nays

1 absent — Vo

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

WITNESSES: For — Tom Glass, Texas Constitutional Enforcement (*Registered, but did not testify*: Michael Belsick)

Against — (*Registered, but did not testify*: Lee Ann Alexander, American Property Casualty Insurance Association)

BACKGROUND: Concerns have been raised that some money transmission license holders are imposing fines on consumers for violating terms of service.

DIGEST: SB 1607 would prohibit a money transmission license holder from including a provision in its terms of service agreement allowing or providing for a monetary fine or penalty for violating any part of the terms of service agreement.

A money transmission license holder that violated the bill would be liable to the state for a civil penalty in an amount equal to three times the amount of the fine or penalty imposed by the license holder. The bill would authorize the attorney general to bring an action to recover the civil penalty and would entitle the attorney general to recover attorney's fees and costs incurred in bringing the action.

The bill could not be construed to prevent a money transmission license holder from closing a customer account due to a violation of a terms of service agreement.

The bill would take effect September 1, 2023, and would apply only to terms of service agreements entered into after the effective date.

SUBJECT: Amending Medicaid reimbursement for nursing facilities

COMMITTEE: Human Services — favorable, without amendment

VOTE: 6 ayes — Frank, Rose, Hull, Noble, Ramos, Shaheen

0 nays

3 absent — Campos, Klick, Manuel

SENATE VOTE: On final passage (April 20) — 29 - 0

WITNESSES: For — (*Registered, but did not testify*: Joe Sanchez, John Vasquez, AARP; Andrea Earl, Mark Hollis, Rob Schneider, Kenny Scudder, AARP Texas; Melissa Sanchez, Alzheimer's Association; Alyse Meyer, LeadingAge Texas; Mary Nichols, Texas Caregivers for Compromise; Alexa Schoeman, Texas Long-Term Care Ombudsman)

Against — (*Registered, but did not testify*: Ryan Harrington, Trinity Healthcare, LLC)

On — Gavin Gadberry, Texas Health Care Association; Jon Unroe, THCA; Eddie Parades, The Independent Coalition of Nursing Home Providers (*Registered, but did not testify*: Victoria Grady, Health and Human Services Commission)

BACKGROUND: Some have suggested that nursing facility care could be improved by increasing transparency and accountability and directing more funds to care and outcomes for residents.

DIGEST: SB 1629 would establish a direct care expense ratio for Medicaid reimbursements for nursing facility providers and add requirements for an incentive payment program and certain applications.

Direct care expense ratio. SB 1629 would require the Health and Human Services Commission (HHSC) executive commissioner to establish an annual direct care expense ratio applicable to Medicaid reimbursement for

nursing facility providers. In establishing the ratio, the executive commissioner would have to require that at least 80 percent of the proportion of Medicaid reimbursement paid to a nursing facility that was attributable to patient care expenses was spent on reasonable and necessary direct care expenses. Direct care expenses would include non-revenue generating support services, ancillary services, and program services. The term would not include administrative costs other than nursing administration, capital or debt costs, and certain other costs.

The HHSC executive commissioner would have to adopt rules necessary to ensure each nursing facility provider participating in Medicaid complied with the direct care expense ratio. To the extent permitted by federal law, HHSC could recoup all or part of applicable reimbursement amounts paid to a nursing facility if the facility failed to spend the reimbursement amounts in accordance with the direct care expense ratio.

HHSC could not require a nursing facility to comply with the direct care expense ratio as a condition of participation in Medicaid. These provisions would not apply to a state-owned facility.

A contract between a managed care organization and HHSC would have to require that each provider agreement between the organization and a nursing facility include a requirement that the facility comply with the direct care expense ratio. In providing Medicaid benefits to recipients who resided in nursing facilities through the STAR+PLUS managed care program, HHSC would have to ensure that nursing facilities complied with the direct care expense ratio.

Direct care incentive payment programs. The HHSC executive commissioner would have to ensure that rules governing an incentive payment program to increase direct care staff and wages and benefits required HHSC to recoup all or part of an incentive payment if the nursing facility failed to satisfy a program requirement. A provider who was the subject of such a recoupment would be prohibited from participating in the program for at least two consecutive years following the recoupment. HHSC would be required to publish and maintain a list of each provider prohibited from participating in the program on its website.

Application information. An application for a license for nursing facilities and related institutions would have to include the name of each person with an ownership interest of 5 percent or more in the nursing facility and real property on which the nursing facility was located. The application also would have to describe the exact ownership interest of each of these people in relation to the facility or property. A license holder would be required to notify HHSC of any change to the ownership interest application information.

Other provisions. 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.

NOTES: According to the Legislative Budget Board, SB 1629 would have a negative impact of about $1.5 million on general revenue related funds for fiscal 2024-25.

SUBJECT: Requiring an election to approve certain funding changes for prosecutors

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller

3 nays — Hernandez, Anchía, Turner

1 absent — S. Thompson

SENATE VOTE: On final passage (March 20) — 29 - 2

WITNESSES: For — (*Registered, but did not testify*: Christopher Dyer, Dallas County Sheriff's Association; James Parnell, Dallas Police Association; Mark Clark, Harris County District Attorney, Kim Ogg; Ray Hunt, Houston Police Officers' Union; Mitch Landry, Dallas Reed, Texas Municipal Police Association; Lucy Trainor)

Against — (*Registered, but did not testify*: Julie Wheeler, Travis County Commissioners Court)

On — Adam Haynes, Conference of Urban Counties; Russell Schaffner, Tarrant County Commissioners Court (*Registered, but did not testify*: Shawn Hall Lecuona, Almighty)

BACKGROUND: Some have suggested that measures established to protect funding for law enforcement should also be applied to prosecutors.

DIGEST: SB 740 would apply to a prosecutor's office provisions requiring an election prior to the reduction or reallocation of the office's funding or resources by a county. For the purposes of the bill, "prosecutor's office" would be defined as "the office of a district attorney, criminal district attorney, or county attorney with criminal jurisdiction." The bill would make conforming changes to reflect this revision.

The bill would take effect September 1, 2023.

SUBJECT: Revising the pay schedule of peace officers commissioned by HHSC

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

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

0 nays

1 absent — Canales

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

WITNESSES: None *(considered in a formal meeting on May 4)*

BACKGROUND: Concerns have been raised that the Health and Human Services Commission's office of inspector general faces difficulty in recruiting and retaining qualified peace officers as the pay and benefits does not address the cost of living and is not comparable with that of other agencies. Some have suggested that classifying these officers under the Schedule C pay schedule would provide better benefits for the officers and improve recruiting efforts.

DIGEST: SB 1698 would expand Health and Human Services Commission's (HHSC) ability to commission peace officers for certain duties and revise provisions related to officer compensation.

The bill would revise provisions establishing the purpose for which HHSC's office of inspector general could employ and commission peace officers to include assisting with investigations of fraud, waste, or abuse under SNAP or Medicaid. A maximum of five peace officers, required to be administratively attached to the Department of Public Safety (DPS), could be employed for these purposes at any given time. HHSC also would be required to employ and commission peace officers to assist a state or local law enforcement agency in the investigation of an alleged criminal offense involving a state hospital patient or a state supported living center client or resident.

The bill would require prior approval from the office of the attorney general to be obtained from HHSC's office of inspector general, rather than a peace officer employed and commissioned by HHSC, before a peace officer could carry out any duties requiring peace officer status. HHSC's office of inspector general would be required to ensure that a peace officer employed by HHSC was compensated according to Schedule C of the position classification salary schedule, a classification which would have to be made by the classification officer in the office of the state auditor. The change made by the classification officer would apply beginning September 1, 2023. The bill's provisions related to the state auditor would expire September 1, 2025.

The bill would include commissioned officers employed by HHSC's office of inspector general to the statutory categories of "peace officer" "state employee," and would make provisions governing injury leave applicable to such peace officers.

If before implementing any provision of the bill a state agency determined that any other waiver or authorization from a federal agency was necessary for implementation of that provision, the agency affected by the provision would be required to request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

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

NOTES:

According to the Legislative Budget Board, SB 1698 would have a negative impact on general revenue related funds of $3,969,056 through fiscal 2024-25.

SUBJECT: Increasing the criminal penalty for operation of a stash house

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Cook, Darby, Leach, C. Morales, Schatzline

0 nays

3 absent — Bhojani, Bowers, Harrison

SENATE VOTE: On final passage (May 3) — 30 - 1

WITNESSES: For — (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; AJ Louderback, Texas Sheriffs' Regional Alliance)

Against — None

BACKGROUND: Some have suggested that the criminal penalty for operating a stash house should be increased to combat smuggling and drug trafficking and to deter individuals from committing the offense.

DIGEST: SB 1267 would increase the criminal penalty for operation of a stash house 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 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, as a direct result of the offense, an individual:

- became a victim of sexual assault or aggravated sexual assault; or
- suffered serious bodily injury or death.

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

SUBJECT: Prohibiting state voting systems from being developed in certain countries

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

1 absent — S. Thompson

SENATE VOTE: On final passage (April 20) — 30 - 1

WITNESSES: For — Shawn Hall Lecuona, Almighty (*Registered, but did not testify*: Tom Nobis, The Republican Party of Texas; Judi DeHaan; Teresa Thomas; Lucy Trainor)

Against — (*Registered, but did not testify*: John Mckiernan-Gonzalez)

BACKGROUND: Some have suggested that prohibiting a voting systems manufacturer from contracting with entities headquartered in certain countries for software development services could prevent interference in the vote counting process.

DIGEST: SB 1846 would prohibit a voting systems manufacturer from entering into a contract or extending or renewing a contract for software development services with a company or other entity headquartered in or an individual who was based in China, Cuba, Iran, North Korea, or Russia.

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

SUBJECT: Revising procedures for the child abuse and neglect central registry

COMMITTEE: Human Services — favorable, without amendment

VOTE: 6 ayes — Frank, Rose, Manuel, Noble, Ramos, Shaheen

0 nays

3 absent — Campos, Hull, Klick

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

WITNESSES: For — Meagan Corser, Family Freedom Project (*Registered, but did not testify*: Andrew Brown, Texas Public Policy Foundation; Natalie Ibe, True Texas Project)

Against — None

On — (*Registered, but did not testify*: Lisa Kanne, Marta Talbert, DFPS)

BACKGROUND: Concerns have been raised that some individuals may not be sufficiently notified when their names are placed on the child abuse and neglect central registry, which could have a negative impact on the person's employment, licensing, or volunteering.

DIGEST: SB 515 would create severity codes for certain cases of child abuse or neglect, establish procedures for expungement reviews for the child abuse and neglect central registry, and revise other provisions related to the registry.

Severity codes. The Department of Family and Protective Services (DFPS) would be required to assign a severity code to each substantiated finding of abuse or neglect related to a parent, guardian, managing or possessory conservator, foster parent, member of the child's family or household, a person with whom the child's parent cohabitated, or a school personnel or volunteer.

The severity code “low” would be assigned to an isolated incident where there was a threat of harm but no injury to a child, and the incident was due to an accident or parental mistake that did not pose an ongoing risk of harm. “Low” would be limited to substantiated findings of neglectful supervision and could not be used in an investigation of a school.

The severity code “moderate” would be assigned to an incident of abuse or neglect in which there was a low or moderate risk of future harm to a child, there were no unmanaged dangers in the home, the incident did not result in removal, and DFPS closed the investigation with a recommendation for community services. “Moderate” would be limited to substantiated findings of emotional abuse, neglectful supervision, and physical abuse consisting of an isolated incident of inappropriate discipline that did not require care by a medical provider or result in substantial injury to the child.

The severity code “serious” would be assigned to an incident of abuse or neglect in which there was a high risk of future harm to a child, there were unmanaged dangers in the home and removal of the child from the home would be necessary without services to the family. “Serious” would be limited to substantiated findings of emotional abuse, neglectful supervision, refusal to accept parental responsibility, medical or physical neglect if the incident did not result in any harm or injury to the child and physical abuse that did not result in serious injury to the child.

The severity code “severe” would be assigned to an incident of abuse or neglect in which there was a very high risk of future harm to a child, there were unmanaged dangers in the home, and a court rendered an order removing the child from the home in a suit affecting the parent-child relationship. “Severe” would be limited to substantiated findings of sexual abuse, physical abuse that resulted in serious injury to the child, medical or physical neglect that resulted or could have resulted in impairment to the child’s overall health or well-being, sex or labor trafficking, forced marriage, and abandonment.

The severity code “near fatal” would be assigned to an incident of abuse or neglect in which a physician had certified that a child was in critical or serious condition and a caseworker determined that the child’s condition

was caused by abuse or neglect. The severity code “fatal” would be assigned to an incident of abuse or neglect that resulted in a child fatality.

These provisions would not apply to a person alleged to have abused or neglected a child at certain facilities or family homes providing child care services.

Maintaining and removing names. SB 515 would require DFPS to maintain a person’s name in the child abuse and neglect central registry until:

- the fifth anniversary of the finding for a moderate case;
- the 15th anniversary of the finding for a serious case;
- the 30th anniversary of the finding for a severe case or the 15th anniversary of such a case if the court returned the child to the child’s home during the period within which the court rendered a final order for the review of the child’s placement under DFPS care;
- the 99th anniversary of the finding for a near fatal or fatal case.

A person whose case was assigned the severity code "low" would not be named in the central registry. If DFPS’ abuse or neglect finding was sustained by the State Office of Administrative Hearings, DFPS would maintain the person’s name in the central registry until the 20th anniversary of the finding or the anniversary prescribed by the case’s severity code, whichever was longer. DFPS could not maintain a person’s name in the central registry after DFPS disposed of case records related to the investigation.

DFPS would be required to remove a person’s name from the central registry by the 10th business day after an expungement review panel decided to remove a person’s name from the registry.

DFPS would have to remove from the central registry any person against whom DFPS made a finding of abuse or neglect when the person was younger than 18 if the case met certain requirements under the bill.

Providing notice. Before DFPS could add a person's name and information to the central registry, DFPS would have to provide written notice with certain information to the person that the person would be added to the registry.

Expungement reviews. DFPS would be required to establish expungement review panels to review requests to have a person's name removed from the central registry. A panel would be composed of DFPS employees and a member of the public appointed by the DFPS commissioner from a list of volunteers. Members of an expungement review panel would be immune from civil or criminal liability for any act or omission related to their responsibility if the members acted in good faith and within the scope of their responsibility.

A person could request to have the person's name removed from the central registry by submitting a written request to the DFPS commissioner, including a letter that described the reason for the request. Only a parent, guardian, managing or possessory conservator, foster parent, member of the child's family or household, or a person with whom the child's parent cohabitated could make such a request.

A person could not make such a request before the third anniversary of the most recent finding of child abuse or neglect. If the expungement review panel denied a request after a hearing, the person could not submit a subsequent request until one year after the decision on the last request. A person could not request more than three hearings on a single finding of child abuse or neglect within a 10-year period and could not have more than four total hearings.

A person would be ineligible for an expungement review if:

- the incident of abuse or neglect resulted in a child fatality or near fatality;
- a court ordered the termination of the parent-child relationship as a result of the abuse or neglect;
- DFPS made another substantiated finding of abuse and neglect by the person; or

- the person had a criminal adjudication for an offense involving child abuse or neglect.

The bill would specify procedures for expungement review notices and hearings. By the 45th day after the hearing, the expungement review panel would be required to render a written decision on the request. The decision would have to be made by majority vote, and the panel would have to consider certain factors including the severity of the allegations, the number of findings of abuse or neglect, and other relevant information.

A review conducted by an expungement review panel and related documents would be confidential and not subject to disclosure under public information laws. These provisions would not apply to persons alleged to have committed abuse or neglect in certain facilities and family homes providing child care services or school investigations.

Records retention and expunction. DFPS could retain records related to an abuse or neglect investigation after a person's name had been removed from the central registry to perform required background checks and conduct risk and safety assessments. DFPS would have to comply with a court order directing record expunction concerning a person for whom DFPS maintained records.

Effect. SB 515 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 a finding of abuse or neglect on or after the effective date.

NOTES:

According to the Legislative Budget Board, SB 515 would have a negative impact of about $3 million for fiscal 2024-25.

SUBJECT: Adding requirements and expanding eligibility for school marshals

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

VOTE: 5 ayes — Guillen, Dorazio, Harless, Holland, Troxclair

2 nays — Bowers, Goodwin

1 absent — Canales

1 present not voting — Jarvis Johnson

SENATE VOTE: On final passage (April 24) — 30 - 0

WITNESSES: None *(considered in a formal meeting on May 4)*

BACKGROUND: Some have suggested that expanding eligibility and increasing training requirements for the state's school marshal program could improve access to the program and ensure high-quality training for those participating.

DIGEST: SB 2407 would extend eligibility to participate in the Texas Commission on Law Enforcement's (TCOLE) school marshal training program to employees of a school district, charter school, private school, or public junior college who were retired peace officers or honorably discharged veterans of the US armed forces, in addition to those who held a handgun license.

For the portion of the program designed to enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter, TCOLE would have to require a trainee to complete a course of instruction offered by the Advanced Law Enforcement Rapid Response Training Center at Texas State University - San Marcos that was designed to prepare the trainee to isolate, distract, and neutralize an active shooter.

The bill also would specify that a school district, charter school, private school, or public junior college employee's status as a school marshal

would only become inactive on suspension or revocation of the employee's license to carry a handgun if the employee was required to hold that license as a condition of the employee's school marshal license.

By April 1, 2024, TCOLE would be required to develop a school marshal training program under the bill’s provisions that could be offered over a number of consecutive Saturdays during a school year.

The bill would take effect September 1, 2023.

SUBJECT: Revising provisions related to Texas Windstorm Insurance Association

COMMITTEE: Insurance — committee substitute recommended

VOTE: 6 ayes — Oliverson, Cain, Caroline Harris, Hull, Paul, Perez

0 nays

3 absent — A. Johnson, Cortez, Julie Johnson

SENATE VOTE: On final passage (May 8) — 27 - 4

WITNESSES: For — (*Registered, but did not testify*: Ryan Brannan, Coastal Windstorm Insurance Coalition; Sally Bakko, City of Galveston; M. Scott Norman, Jr., Texas Association of Builders; Ware Wendell, Texas Watch; Wendy Herman, The City of Corpus Christi)

Against — Scot Kibbe, American Property Casualty Insurance Association ; Jon Schnautz, National Association of Mutual Insurance Companies; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions

On — Jay Thompson, Afact; Paul Martin, Reinsurance Association of America (*Registered, but did not testify*: David Bolduc, Office of Public Insurance Counsel; Brian Ryder, Texas Department of Insurance; David Durden, Texas Windstorm Insurance Association)

BACKGROUND: Some have suggested that additional reforms to the Texas Windstorm Insurance Association could help to ensure the association funding structure is sustainable and allows the association to fulfill its public function as the insurer of last resort on the Texas Gulf Coast.

DIGEST: SB 1217 would revise provisions of the Texas Windstorm Insurance Association (TWIA) related to board structure, financing, and solvency.

Board of directors. The board of directors for TWIA would be expanded from nine to eleven members. The additional two members would be

appointed by the commissioner of insurance by December 31, 2023. The initial term of one new board member would expire in March 2026, and the initial term of the second new board member would expire in March 2027. The bill would also revise certain provisions related to the composition, location, and length of terms for board members. The ability for insurer representatives to nominate insurer board members would be repealed.

The bill would specify that, except in a case of emergency, a meeting of the board of directors would be held in a first tier or second tier coastal county.

TWIA would be prohibited from automatically adjusting the amount of coverage to be purchased by a policyholder and would not be able to adjust premiums, fees, or any other costs to policyholders for inflation without a vote by the board of directors.

The bill would repeal the depopulation program relating to the transfer of TWIA policies to insurers through the voluntary market or assumption reinsurance.

Probable maximum loss. TWIA would be required to file with the Department of Insurance a proposed probable maximum loss that aligned with statutory funding requirements. When determining the probable maximum loss, TWIA:

- could not consider the cost of providing loss adjustments; and
- would be required, to the extent possible, to contract with disinterested third parties to execute catastrophe models under provisions specified in the bill.

Only a probable maximum loss that was approved by the commissioner could be used by TWIA. The commissioner could reject a probable maximum loss filed with the department by TWIA and set a probable maximum loss at any amount determined by the commissioner. TWIA would be required to make information produced when determining the probable maximum loss publicly available on its website.

The amount of loss adjustment expense adopted by the board of directors for a catastrophe year and used for TWIA's rate indication for filing a required rate would be required to be above the probable maximum loss.

Payment of losses incurred prior to January 1, 2024. CSSB 1217 would revise provisions on payment of losses such that if, in a catastrophe year before January 1, 2024, rather than in a catastrophe year in general, an occurrence or series of occurrences in a catastrophe area resulted in insured losses and operating expenses for TWIA in excess of premium and other association revenue, the excess losses and operating expenses would be paid in accordance with current statute.

Public securities. TWIA could issue public securities or enter into financing arrangements with the state if TWIA needed to provide funds for excess losses and operating expenses incurred before January 1, 2024, for a catastrophe year that occurred before that date. TWIA would be prohibited from issuing public securities for losses and operating expenses that occurred after December 31, 2023.

The bill would further stipulate that public securities, financing arrangements, or assessments made before January 1, 2024, or as a result of an occurrence prior to that date, that resulted in losses before that date could not be included in reserves available for later years unless approved by the commissioner. Provisions also would be included in the bill to identify repayment terms for financial arrangements.

Payment of losses incurred after December 1, 2023. TWIA would be required to pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year in excess of the premium and other association revenue collected for that catastrophe year from association reserves available before or accrued during that catastrophe year and amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

For insured losses and operating expenses for a catastrophe year not paid with the aforementioned funds, TWIA would be required to arrange for financing of up to $1 billion through one or more financing arrangements made with the state as allowed under provisions in the bill. TWIA would

be prohibited from paying for insured losses and operating expenses resulting from an occurrence or series of occurrences with premium and other revenue earned in a subsequent year.

Member assessments. Member assessments would be required to pay for insured losses and operating expenses for a catastrophe year that were not paid by either reserves or a financing arrangement. The member assessment could not exceed $1 billion for the catastrophe year.

The board would be required to notify each association member of the amount of the member's assessment. The portion of insured losses and operating expenses allocated to each insurer member would be determined in accordance with current law. TWIA members would be prohibited from recouping assessments paid through a premium surcharge or tax credit.

Proceeds from member assessments could not be included in reserves available for a catastrophe year unless approved by the commissioner.

Reinsurance. TWIA would be allowed to obtain reinsurance at any level to protect the solvency and viability of the association. The commissioner would be allowed to consult with the board of directors regarding additional methods to protect the TWIA's solvency and viability.

Association members could purchase reinsurance to cover an assessment the member would otherwise be required to pay. Members would be required to notify the board if the member would be purchasing reinsurance. If a member did not purchase reinsurance, the member would remain liable for any assessment imposed.

Catastrophe financing arrangement. TWIA would be allowed to enter into a financing arrangement with the state as allowed under the bill before a catastrophic event for up to $500 million, and after a catastrophic event that depleted the catastrophe reserve fund for up to $1 billion. The amount available for an arrangement after a catastrophic event would take into account pre-event or other post-event financing obtained by the association.

Catastrophe surcharge. The commissioner, in consultation with the TWIA board of directors, could order a catastrophe surcharge if:

- before a catastrophic event, the association entered into a financing arrangement with the state that would be the basis for the surcharge; or
- after a catastrophic event, the commissioner determined that the association had depleted its reserves, other money, and the catastrophe reserve fund and the association entered into a financing arrangement with the state that would be the basis for the surcharge.

The surcharge would be set as a percentage of the premium to be collected by insurers specified in the bill. The total amount authorized to be collected for any catastrophe surcharge would be prohibited from exceeding the amount needed to repay the debt owed to the state under the financing arrangement that would be the basis for the surcharge.

The commissioner could set the surcharge as a percentage of premium that could be collected within three years. Insurers would be required to assess the surcharge on all policyholders of policies subject to the bill. The surcharge would be a separate charge in addition to the premium collected and would not be subject to premium tax or commission.

Each policy assessed a surcharge would be required to include a prominent disclosure as established by the bill. Failure of a policyholder to pay the surcharge would constitute a failure to pay a premium for purposes of policy cancellation and the surcharge would not be refundable if the policy had been canceled. Surcharges could not be collected on policies issued to the state, a state agency, or a political subdivision.

The proceeds of the surcharge would be deposited into the catastrophe reserve trust fund, or an account designated by the comptroller to repay TWIA's debt obligation to the state under the financing arrangement. Collected surcharges would be exempt from taxation by the state, municipality, or other political subdivision.

Association members, insurers required to collect a surcharge, association board members, association employees, the insurance commissioner, and Department of Insurance employees would not be personally liable as a result of exercising the rights and responsibilities related to surcharges.

Investment in catastrophe financing arrangements. The comptroller would be required to invest state money to provide financing for losses of TWIA in accordance with state law and the bill. Interest rate terms for an arrangement would be included in the bill and the finance term could not exceed 36 months.

Through a separately managed account or other investment vehicle, the comptroller could use up to $1 billion of economic stabilization fund balances to provide financing for such arrangements. The aggregate amount of pre-event and post-event financing arrangements could not exceed $1 billion.

Prohibition on lobbying. The bill would prohibit TWIA from using any money under its control to attempt to influence the passage or defeat of legislation. A TWIA employee or member of the board who violated the prohibition against lobbying would be subject to immediate termination and a fine of $10,000. A TWIA employee or member of the board would not be prohibited from using money under TWIA's control to provide public information or to respond to a request for public information.

The bill would include conforming changes to address required transition periods between the current TWIA funding methodology and the methodology that would begin after December 31, 2023 and would revise conservatorship requirements in recognition of the new funding methodology. TWIA would not be subject to an insurance premium tax or insurance maintenance fee or tax.

Annual report. The commissioner would be required to determine the amount available in the catastrophe reserve trust fund on December 31 of each year and provide a written report to the governor, lieutenant governor, and speaker of the House that included the amount available in the catastrophe reserve trust fund and information regarding the current financial condition of the association.

CSSB 1217 would establish that the payment of excess losses and operating expenses of TWIA incurred before January 1, 2024, would be governed by the law as it existed on the effective date of the bill. The issuance of public securities to pay excess losses and operating expenses TWIA incurred before January 1, 2024 and the use of the proceeds of those securities, the repayment or refinancing of the securities, and any other rights, obligations, or limitations with respect to the securities and proceeds also would be governed by the law as it existed on the effective date of the bill.

The bill would take effect September 1, 2023. Changes made to the TWIA board would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, those provisions also would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, CSSB 1217 would have an estimated negative impact of $15,994,000 on general revenue related funds through the biennium ending August 31, 2025. However, the timing and amounts of any excess losses are unknown and the amounts loaned from state investment arrangements, member assessments, or the issuance of public securities are unknown, therefore the full fiscal impact cannot be determined at this time.

SUBJECT: Allowing certain officers to carry weapons while off-duty

COMMITTEE: Community Safety, Select — favorable, without amendment

VOTE: 7 ayes — Guillen, Burrows, Dorazio, Harless, Holland, Landgraf, Troxclair

6 nays — Jarvis Johnson, Bowers, Canales, Goodwin, T. King, Moody

SENATE VOTE: On final passage (April 20) — 28 - 3

WITNESSES: None *(considered in formal meeting May 8)*

BACKGROUND: Some have suggested that certain provisions governing public safety officers, such as the offense of taking a weapon from an officer and allowing officers to carry a weapon while they are off-duty, should include juvenile probation officers.

DIGEST: SB 1960 would prohibit an establishment serving the public from prohibiting or otherwise restricting an honorably retired peace officer or other qualified retired law enforcement officer from carrying on the establishment's premises a weapon that the officer was otherwise authorized to carry. The bill also would place the same prohibitions on an establishment serving the public for a community supervision and corrections department officer or a juvenile probation officer, regardless or whether the officer was on duty while carrying the weapon.

The bill would authorize a community supervision and corrections department officer to carry a weapon regardless of whether the officer was on duty, rather than only when the officer was on duty. The bill also would authorize a juvenile probation officer, under certain conditions, to carry a firearm regardless of whether the officer was carrying the firearm in the course of the officer's official duties, rather than only in the course of the officer's official duties.

The bill would add juvenile probation officers to the list of officers for which it was offense to intentionally or knowingly and with force take or

attempt to take the officer's firearm, nightstick, stun gun, or personal protection chemical dispensing device. The bill would change the name of the offense to reflect this addition.

The bill would revise exemptions to certain provisions governing the unlawful carrying of a weapon and places where weapons are prohibited to reflect the changes made by the bill.

The bill would take effect September 1, 2023, and would apply only to a cause of action that accrued, the carrying of a weapon or firearm, or an offense committed on or after that date.