
Vetoed of Legislation

85th Legislature

Gov. Greg Abbott vetoed 50 bills approved by the 85th Legislature during the 2017 regular legislative session. The vetoed bills include 36 House bills and 14 Senate bills.

This report includes a digest of each vetoed measure, the governor's stated reason for the veto, and a response to the veto by the author or the sponsor of the bill. If the House Research Organization analyzed a vetoed bill, the *Daily Floor Report* in which the analysis appeared is cited.

A summary of the governor's line-item vetoes to SB 1 by Nelson, the general appropriations act for fiscal 2018-19, will appear in an upcoming House Research Organization state finance report, *Texas Budget Highlights, Fiscal 2018-19*.

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Recognizing academic success by former special education students

HB 61 by Guillen (Uresti)

DIGEST: HB 61 would have added mechanisms to the public school accountability system to recognize academic performance by students formerly participating in a special education program. The bill would have added an indicator for evaluating the performance of students who formerly received special education services and subsequently achieved satisfactory academic performance on STAAR assessments in grades 3 through 8. The percentage of these students would have been included in an academic distinction designation for districts and campuses.

The bill also would have revised requirements related to the placement and use of video cameras in classrooms and other settings where special education services are provided.

GOVERNOR'S REASON FOR VETO: "I have signed House Bill 22, which reforms our public school accountability system to provide additional transparency on school performance. Multiple provisions of House Bill 61 are based on the existing accountability system, which was overhauled by House Bill 22. Additionally, parts of House Bill 61 regarding the use of video cameras in special education classrooms are already adequately addressed by Senate Bill 1398, which I have signed."

RESPONSE: **Rep. Ryan Guillen**, the bill's author, said: "This bill would have provided an academic designation recognizing schools with successful special education programs. It would have provided schools a first-of-its-kind incentive to exceed minimum standards and strive for excellence in special education. We had no idea the governor had concerns with this bill before he vetoed it and still do not understand his objection."

Sen. Carlos Uresti, the Senate sponsor, said: "I worked to have the provisions in HB 61 included in HB 22, which ultimately passed with bipartisan support. The special education camera provisions also passed as SB 1398. Therefore, HB 61 is unnecessary, and I agree with Gov. Abbott's decision to veto the legislation. I look forward to monitoring the implementation of the provisions in the bill, and I believe that school districts and our special education children will benefit greatly from our efforts."

NOTES: The HRO analysis of HB 61 appeared in Part Two of the May 1 *Daily Floor Report*.

Entitling a parent to view a deceased child's body before an autopsy

HB 298 by Larson (Campbell)

- DIGEST:** HB 298 would have entitled a parent of a deceased child to view a child's body before a justice of the peace or medical examiner assumed control of the body. The bill would have established conditions under which parents could view a body after the justice of the peace or medical examiner had assumed control of a body and under which viewing could be conducted if the death was subject to an inquest.
- GOVERNOR'S REASON FOR VETO:** "I have signed Senate Bill 239, authored by Senator Donna Campbell, which contains language identical to House Bill 298."
- RESPONSE:** Neither **Rep. Lyle Larson**, the bill's author, nor **Sen. Donna Campbell**, the Senate sponsor, had a comment on the veto.
- NOTES:** The HRO analysis of HB 298 appeared in Part Two of the April 27 *Daily Floor Report*.

Requiring state agencies to cite legislation authorizing rules

HB 462 by Dale (Zaffirini)

DIGEST: HB 462 would have required state agencies to give notice of a proposed rule to the authors and sponsors of the legislation under which the rule would be adopted. Notice would have been given on the same day the agency filed notice of its intention to adopt the rule with the Secretary of State for publication in the Texas Register. The bill would have required that the notice filed with the Secretary of State include the bill number of the legislation that enacted the statutory or other authority providing the basis for the proposed rule.

GOVERNOR'S REASON FOR VETO: "Agency rulemaking is an executive branch function, not a legislative function. Transparency in rulemaking is important, but it should not come at the expense of legislative encroachment on executive branch authority. Additionally, House Bill 462 has the potential to slow down the executive rulemaking process rather than enhance it."

RESPONSE: **Rep. Tony Dale**, the bill's author, said: "I respectfully disagree with the governor's veto. I filed this bill to promote accountability and transparency at state executive agencies and to require state agencies to cite their legal authority when rulemaking. It is not always clear under what legal authority state agencies promulgate rules that will have the effect of law.

"HB 462 had two components. First, the bill would have required state agencies to cite what legal authority they have to create new rules. The second part of the bill would have required the agency to provide notice of the proposed rule and the statutory authority under which the proposed rule is adopted to the author, joint author, sponsor and joint sponsor of the bill.

"I would have welcomed the opportunity to work with the governor's office on any concerns they had with HB 462 prior to the veto. In his veto statement, the governor said, "Agency rulemaking is an executive branch function, not a legislative function." While this is true, it should be recognized that agency rulemaking is authorized by the Legislature as a delegated authority and it is in the purview of the legislature to weigh in on such issues.

"During the 84th legislative session, a total of 1,322 bills were passed. Of those 1,322 bills, 126 authorized rulemaking at state agencies. According to the Secretary of State's office, during the 2015-16 biennium, 12,528 rules were adopted by executive agencies. The governor was concerned that HB 462 had the potential to

slow down the executive rulemaking process rather than enhance it. If state agencies are adopting 10 times the number of rules in a biennium than the number of laws passed during a session, perhaps rule making should move at a more deliberate pace.

“I urge future legislatures to adopt legislation improving rulemaking transparency. I also caution future legislatures to be wary of granting rulemaking authority to agencies, as those adopting the rules are not elected officials.”

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES:

HB 462 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Coordinating statewide pesticide disposal activities

HB 572 by Stephenson (Kolkhorst)

DIGEST: HB 572 would have required the Texas Department of Agriculture (TDA), in coordination with the Texas Commission on Environmental Quality (TCEQ) and Texas A&M AgriLife Extension Service, to organize pesticide waste and container collection activities statewide. The bill would have allowed TDA, TCEQ, and the AgriLife Extension Service to contract for services to implement these collection activities and facilitate the collection of canceled, unregistered, or otherwise unwanted pesticide products and containers.

The bill would have created a pesticide disposal fund outside of the general revenue fund to pay for these collection activities. The fund would have consisted of money from pesticide registration and renewal fees and the interest earned on the investment of money in the fund. TDA would have had to deposit annually to the credit of the pesticide disposal fund an amount of money sufficient to cover administrative costs for pesticide waste and container collection activities, not to exceed \$400,000.

GOVERNOR'S REASON FOR VETO: "According to the fiscal note on House Bill 572, the program created by the bill will either result in a cost to the state budget of \$2 million over five years, or will result in the Texas Department of Agriculture raising fees to offset the cost. Neither outcome is desirable."

RESPONSE: **Rep. Phil Stephenson**, the bill's author, said: "HB 572 passed without impediments through both the House and Senate. The entirety of agriculture supported the bill without reservation, as can be referenced from the witness testimony list. HB 572 had enthusiastic support from a variety of producers, the Farm Bureau, the Lower Colorado River Authority, as well as pesticide manufacturers, the very industry that in effect would be underwriting the program through pesticide registration fees. These fees total \$9.6 million biannually. HB 572 needed \$400,000 from these fees before the remaining funds were swept into general revenue, an amount that was determined to be not only feasible but cost effective.

"From 1992 through 2010, the Texas Commission on Environmental Quality (TCEQ) administered agricultural pesticide waste collection events. The program was designed to collect and properly dispose of unused, unwanted, banned, or suspended pesticides from rural Texas. According to TCEQ, the program properly disposed of 2,284 tons of agricultural waste pesticides. The program at that point was paid for by fees levied at pesticide manufacturers. The program was discontinued due to the Great Recession. The Texas Department of Agriculture was determined a good fit for the reinstatement of the program because of the availability of fee revenue.

“There is currently no program to dispose of these pesticides. What is available is a tedious website that provides information on disposal. It is up to the respective farmer or rancher to negotiate the logistics and pay for it, which is expensive. It should be added that it is unlawful to keep or store expired pesticides.

“HB 572 is sound, responsible public policy. The bill was re-filed during the special session as HB 103.”

Sen. Lois Kolkhorst, the Senate sponsor, had no comment on the veto.

NOTES:

The HRO analysis of HB 572 appeared in Part One of the April 27 *Daily Floor Report*.

Allowing junior college district trustees to be elected by plurality vote

HB 961 by J. Rodriguez (Seliger)

DIGEST: HB 961 would have eliminated the requirement for a junior college governing board runoff election under certain circumstances by allowing the board of trustees to adopt a resolution allowing a candidate who received a plurality of the votes cast at the initial election to prevail. A junior college board that chose this option would have been required to adopt the resolution at least 180 days before the election, and the resolution would have remained in effect for subsequent elections until rescinded by another resolution adopted at least 180 days before the first election to which the rescission applied.

The bill would not have applied to a special election for a vacant trustee position, nor to the appointment of additional trustees for Blinn Junior College District.

GOVERNOR'S REASON FOR VETO: “It is essential that local voters have full opportunity to determine the junior college district board members who make property tax decisions for these districts. House Bill 961 would have authorized elections for junior college district board seats to be decided by plurality vote without a runoff election. In crowded races, this would result in the election of candidates who received a small percentage of voter support. Those very same crowded races are often the ones where voter interest is highest and dissatisfaction with the incumbent is most acute. Runoff elections ensure that every seat on the board is occupied by someone who received a majority of votes in an election. These elections have important consequences for property owners and for junior colleges. They should not be treated like second-tier elections.”

RESPONSE: **Rep. Justin Rodriguez**, the bill’s author, said: “It is disappointing to have HB 961 vetoed by the governor after we worked so closely with numerous stakeholders, including the Texas Association of Community Colleges (TACC), on the language of the bill. The bill, in its final form, was intended to provide community college districts with an alternative to costly, low-turnout trustee runoff elections. HB 961 would not have forced community college districts into a plurality vote system, but rather would have simply allowed them to pass a resolution to opt in should they choose to do so — similar to the option provided to boards of trustees at local school districts.”

Sen. Kel Seliger, the Senate sponsor, had no comment on the veto.

NOTES: HB 961 was digested in Part Two of the *May 5 Daily Floor Report*.

Allowing certain electric utilities to provide land for recreational use

HB 1166 by Stephenson (Kolkhorst)

DIGEST: HB 1166 would have allowed an electric utility in Fort Bend County to enter into an agreement with a political subdivision to allow public use of the utility's premises for recreational purposes while receiving limited liability for incidents that occurred on that property.

GOVERNOR'S REASON FOR VETO: "I signed House Bill 931, which extends statewide the provisions of section 75.022 of the Civil Practice and Remedies Code regarding public parks in utility rights of way. Because House Bill 1166 extended those provisions only to one additional county, it was superfluous and could have caused confusion had it become law."

RESPONSE: **Rep. Phil Stephenson**, the bill's author, said: "A statewide bill was passed that accomplished HB 1166's goal. As HB 931 would override HB 1166, it rendered the bill superfluous."

Sen. Lois Kolkhorst, the Senate sponsor, had no comment on the veto.

NOTES: The HRO analysis of HB 1166 appeared in Part Three of the May 6 *Daily Floor Report*.

Modifying journeyman lineman license and examination

HB 1284 by S. Thompson (Garcia)

DIGEST: HB 1284 would have specified that a journeyman lineman’s work included the installation of equipment used to transmit and distribute electricity, as well as work involving equipment associated with moving electricity from a substation to the point where the electricity entered a building or structure. The Texas Department of Licensing and Regulation (TDLR) would have been required to use a journeyman lineman examination that tested an applicant’s knowledge of materials and methods used in certain aspects of the journeyman lineman’s work and the standards prescribed by the National Electrical Safety Code. TDLR would have been required to adopt the revised code after it was published every five years for use in the journeyman lineman’s examination.

GOVERNOR’S REASON FOR VETO: “I vetoed this bill in 2015. The Legislature enacted the exact same bill that was previously vetoed.”

RESPONSE: **Rep. Senfronia Thompson**, the bill’s author, said: “The work the journeyman lineman performs is generally done by an electric company lineman who works for that specific company and works on their company lines. This means these electric company linemen can work without a license as long as they are working for an electric company, co-op, or municipal utility, but not otherwise.

“Journeyman linemen are generally retired electric company linemen who help the non-electric companies after big storms and on unusually large jobs. When the Electrical Licensing Act was passed, it grandfathered persons already doing this type of work. Because company linemen do not work under master electricians, they cannot take the test or receive an electrician license. This is why the journeyman lineman license was created. Far from limiting those who can do this type of work, the journeyman lineman license in fact expands the number of persons who can do this type of work. The journeyman lineman license allows for this important, yet limited, type of electrical work to be performed on electrical equipment located on a customer’s property (such as a Coca-Cola production and bottling facility) as opposed to only on the electrical equipment under the exclusive control of an electric utility, power generation company.

“The purpose of HB 1284 was to correct the existing language of the statute that unintentionally excludes lineman from work that is integral to the job of the journeyman lineman. The proposed language made clear that this work is included within the coverage of the license. The original intent of the bill we passed last

session was to allow the lineman's license to cover work from the source of production all the way to the final destination. This is traditional work done by an electric company lineman and should be within the scope of the journeyman lineman license. HB 1284 clarified that intent."

Sen. Sylvia Garcia, the Senate sponsor, said: "It appears that the governor has misunderstood the intent and the effect of the bill. Nothing in HB 1284 would prevent any individual practicing their trade from doing so in the future. Nothing in HB 1284 would affect costs or wages. In fact, the only impact of the bill would be to increase economic opportunity for those who are currently inadvertently excluded from aspects of lineman work by virtue of ambiguous language in the original bill (HB 796, 83rd Legislature) creating the license. That is why the final bill, for a second time, had no opposition from utility companies nor from contractors' associations, both union and non-union, in the legislative process."

NOTES:

The HRO analysis of HB 1284 appeared in Part Two of the April 26 *Daily Floor Report*.

Training for public schools on preventing sexual abuse and trafficking

HB 1342 by Parker (Hughes)

DIGEST: HB 1342 would have specified requirements for school district child abuse anti-victimization programs in elementary and secondary schools. The programs would have been required to include annual age-appropriate, research-based child sexual abuse prevention training designed to promote self-protection. Districts would have been required each year to:

- include a description of the training in an informational handbook provided to students, parents, and guardians or on the district's website;
- ensure that each student attended the training; and
- provide at least two opportunities for a student to attend.

GOVERNOR'S REASON FOR VETO: "I have signed Senate Bill 2039, which directs the Texas Education Agency to develop an optional curriculum regarding sexual abuse prevention for use by school districts. While both Senate Bill 2039 and House Bill 1342 seek to achieve a good purpose, Senate Bill 2039 does so in a more suitable way. By recognizing both the importance of this topic and the right of parents to opt their children out of the instruction, Senate Bill 2039 strikes the correct balance. House Bill 1342 was well-intentioned, but it lacked a provision for parental opt-out. This is inconsistent with the longstanding rule in Texas schools that parents can remove their child from 'any part of the district's human sexuality instruction.' TEX. EDUC. CODE §28.004(i)."

RESPONSE: **Rep. Tan Parker**, the bill's author, said: "As lawmakers approached the 85th legislative session, protecting children was rightfully a legislative topic that was at the forefront of our priorities as a state. In that spirit, and as my legislative record reflects, I worked to build upon previous accomplishments related to the prevention of child sexual abuse. After much research and work with industry experts as well as victims, I filed HB 1342 as a self-protection training measure for school children.

"Unlike sex education, HB 1342 provides for age appropriate anti-victimization training so that children can identify what is sexual abuse and how to stop it. Despite this being an abuse prevention bill, it was still carefully crafted to weigh the importance of parental notification, which I have fully supported when students are exposed to child protection measures.

"As HB 1342 advanced through the legislative process, industry experts testified to the well documented fact that over 90 percent of child sexual abuse is committed by a family member or someone the child knows. Therefore, providing a direct parental opt-out would have undermined the intent of this bill and created a dangerous

loophole for abusive adults. Instead, HB 1342 included a requirement that a full description of the course be listed in the school district's parent-student handbook or online, should the school district not provide a handbook. These two options would have allowed parents to have the ability to learn more about the training. The added measure for disclosure and awareness that this training would be provided was an appropriate component of this child safety bill.

"I believe that HB 1342 was unfortunately confused with sex education legislation and not understood, as it was intended to solely provide self-defense training for the most vulnerable in our society."

Sen. Bryan Hughes, the Senate sponsor, had no comment on the veto.

NOTES: HB 1342 was not analyzed in a *Daily Floor Report*.

Selling state property to federally recognized Indian tribes

HB 1406 by Blanco (Hinojosa)

DIGEST: HB 1406 would have allowed the General Land Office to directly sell state property to federally recognized Indian tribes in the same way that it may sell property directly to political subdivisions.

GOVERNOR'S REASON FOR VETO: "Current law gives political subdivisions like cities and counties a preference over private buyers when the General Land Office sells land owned by the State. This practice might be justified in rare cases when there are compelling reasons to ensure that State land continues to benefit the public. In general, however, when selling land the State should seek the best financial terms for the taxpayers. Existing law's preference for political subdivisions is already questionable. House Bill 1406 sought to expand this questionable preference to Indian tribes, which are not political subdivisions of the State."

RESPONSE: **Rep. César Blanco**, the bill's author, said: "It is disappointing that Gov. Abbott would deny our state's federally recognized Indian tribes the ability to purchase real property from the General Land Office in the same direct manner as cities or counties. Federally recognized tribes are government entities, and as such, they should be afforded similar treatment in the purchase of state land.

HB 1406 would have created an even playing field, increasing the ability of our Indian tribes to advance the interests of their community. In his veto statement, the governor stated that the ability of the General Land Office to sell directly to cities and counties was already questionable and cited this concern as his reason for denying similar treatment to federally recognized Indian tribes. However, the governor's office would have retained its authority to veto any sale it deemed improper or not in the state's interest under the Natural Resources Code. The governor instead decided to veto HB 1406, override the near-unanimous will of the Legislature, and deny federally recognized Indian tribes an important development tool to advance their communities."

Sen. Juan "Chuy" Hinojosa, the Senate sponsor, had no comment on the veto.

NOTES: HB 1406 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Creating a certificate of relief from collateral consequences

HB 1426 by Allen (Burton)

- DIGEST:** HB 1426 would have created a certificate of relief from collateral consequences that courts could have issued to certain criminal defendants. The criminal record history of an individual with a certificate could not have been grounds for denying, suspending, or revoking certain professional or occupational licenses.
- To be eligible, a criminal defendant would have been required to have completed a community supervision term, and a judge would have had to dismiss the proceedings or set aside the conviction. The certificate would have stated that an individual was relieved of the penalties, disqualifications, and disabilities resulting from the offense. A court would have had to consider specific factors when deciding whether to issue the certificate.
- Those with criminal history records for certain offenses listed in the bill would not have been eligible for a certificate, including certain violent and serious crimes and offenses relating to the profession or occupation being sought. The prohibition on using criminal history records to deny, suspend, or revoke a license would not have applied to certain licenses or certificates listed in the bill, including health professions, financial and legal services, law enforcement, and those for educators and certain others employed by school districts.
- GOVERNOR'S REASON FOR VETO:** "One of the consequences of committing a crime is a criminal record. Both this session and last session, I have signed bills designed to help people with criminal records get jobs so they can lead productive lives. This is a worthy goal, but House Bill 1426 goes too far by prohibiting state licensing agencies from considering the criminal records of some who apply for a license. A license applicant's criminal background is something the licensing agency should be able to consider. If certain licensing agencies are unfairly discriminating against applicants with criminal records, that should be addressed at the agency board level or through more targeted legislation."
- RESPONSE:** **Rep. Alma Allen**, the bill's author, said: "The justification for Gov. Abbott's veto is confusing because it points to consequences of committing a crime; however, HB 1426 would only provide a certificate of completion to individuals who completed deferred adjudication sentences, meaning they were never convicted of that crime. Current statute specifies that those who satisfactorily complete a term of deferred adjudication community supervision are relieved of penalties and disqualifications related to the criminal offense. HB 1426 would have provided for a verification of satisfactory completion, and the benefits of the certificate would have required licensing agencies to align with current law."

Sen. Konni Burton, the Senate sponsor, had no comment on the veto.

NOTES:

The HRO analysis of HB 1426 appeared in Part Two of the May 2 *Daily Floor Report*.

Statute of limitations for unemployment compensation collections

HB 1433 by Vo (Lucio)

- DIGEST:** HB 1433 would have suspended the statute of limitations on the Texas Workforce Commission's collection of a contribution, a penalty, or interest from an employer under the Texas Unemployment Compensation Act while a judicial proceeding to redetermine liability was ongoing.
- GOVERNOR'S REASON FOR VETO:** "House Bill 1433 would provide for tolling of the three-year statute of limitations on civil actions brought by the Texas Workforce Commission against employers. This could extend by many years the period during which employers face potential liability to the government. Texas employers should not face such uncertainty at the hands of government officials. If an employer is alleged to owe money to the Workforce Commission, three years provides more than enough time for the government to file suit to collect any money it may be owed."
- RESPONSE:** Neither **Rep. Hubert Vo**, the bill's author, nor **Sen. Eddie Lucio, Jr.**, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 1433 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Adding a new metric to the public school accountability system

HB 1500 by Giddings (West)

DIGEST: HB 1500 would have expanded the performance metrics used to evaluate public schools under the state accountability system. It would have required the Commissioner of Education to determine a method to attribute greater weight to a student's performance for each school year the student had been continuously enrolled in the district or at the campus and would have permitted the commissioner to adjust the overall performance rating of a district or campus under certain circumstances.

A district or campus that received a D rating would have been required to develop and implement a targeted improvement plan approved by the district's board of trustees. Education Code interventions and sanctions would have applied to districts or campuses ordered to implement a targeted improvement plan only if the district or campus was assigned an overall or domain performance rating of F or met other circumstances, including under certain circumstances receiving a D rating in consecutive school years.

GOVERNOR'S REASON FOR VETO: "In 2015, the Texas Legislature prioritized parental engagement and increased transparency by developing an A through F grading system for school districts and campuses. House Bill 22, which I have signed, makes positive changes to the existing A through F system. House Bill 22 ensures students, parents, and taxpayers know how well our schools are doing. It also aligns the new grading system with Texas' sanction and intervention strategies. House Bill 1500 is based on the existing grading system and conflicts with House Bill 22."

RESPONSE: **Rep. Helen Giddings**, the bill's author, said: "Although the governor signed legislation incorporating many elements of HB 1500 into law, I was nonetheless disappointed by his decision to not include all of the bill's language into statute. HB 1500 included turnaround language requiring the Commissioner of Education to notify districts in writing when their campus turnaround plans are approved. That would have been tremendously helpful to districts who are often not given proper communication about this process. Additionally, HB 1500 included many additional indicators that districts would have received credit for in Domain IV of the accountability system that were not included in statute. If enacted in full, HB 1500 would have ensured our school accountability system painted a more complete picture of districts' achievements."

Sen. Royce West, the Senate sponsor, had no comment on the veto.

NOTES:

HB 1500 was digested in Part Four of the May 2 *Daily Floor Report*.

Requiring license to advertise structural pest-control services

HB 1586 by T. King (Estes)

DIGEST: HB 1586 would have established that a person was engaged in the business of structural pest control and required to hold a license if the person advertised or solicited to perform any of the following services:

- identifying infestations;
- making oral or written inspection reports, recommendations, estimates, or bids concerning an infestation; or
- making contracts or submitting bids for services or performing certain pest-control services.

The bill would have provided that clerical employees and manual laborers were not engaged in the business of structural pest control if they did not advertise or solicit to perform any of these services.

GOVERNOR'S REASON FOR VETO: "House Bill 1586 is unnecessary. Existing law gives the Texas Department of Agriculture sufficient statutory authority to regulate exterminators."

RESPONSE: Neither **Rep. Tracy O. King**, the bill's author, nor **Sen. Craig Estes**, the Senate sponsor, had a comment on the veto.

NOTES: HB 1586 was digested in Part Three of the May 3 *Daily Floor Report*.

Operations of certain metropolitan rapid transit authorities

HB 1764 by Israel (Watson)

DIGEST: HB 1764 would have revised certain restrictions on the Capital Metropolitan Rapid Transit authority. It would have specified that Capital Metro could encumber already approved funds from one year to the next for capital projects. It also would have changed the computation of certain indicators used in performance audits and revised thresholds for requiring the metropolitan transit authority to contract through certain competitive bidding processes.

GOVERNOR'S REASON FOR VETO: "House Bill 1764 would have reduced budget transparency and competitive bidding requirements for local transportation authorities such as Austin's Capital Metro. The bill would have raised from \$50,000 to \$150,000 the value of a contract that Capital Metro could award without competitive bidding. It would also have expanded Capital Metro's ability to go into debt.

"The legislative bill analysis for House Bill 1764 indicates that the bill was envisioned because "Capital Metro discovered that several sections of Chapter 451 [of the TRANSPORTATION CODE] are out of date with its current operations." If Capital Metro's way of doing business violates the Transportation Code, the answer is not House Bill 1764. The answer is for Capital Metro to follow the law."

RESPONSE: **Rep. Celia Israel**, the bill's author, said: "HB 1764 would have increased transparency by expanding Capital Metro's reporting requirements to include services not directly operated by the transit authority, while also improving administrative efficiency, providing more opportunities for small businesses, and saving local taxpayers money. The bill would have allowed Capital Metro to follow standard accounting practices by encumbering already approved funds from one year to the next. It also would have tied their competitive bid threshold to the Federal Simplified Acquisition Threshold to increase competition for lower cost purchases. Finally, letting the agency finance a facility for up to 15 years could have saved millions of dollars in sales taxes over leasing for a similar amount of time."

Sen. Kirk Watson, the Senate sponsor, said: "HB 1764 would have helped to ensure that Capital Metro successfully operates in a fiscally conservative and transparent manner. Changes to the bidding process for lower cost purchases would have increased competition and improved opportunities for small businesses. Allowing Capital Metro to finance the construction of large facilities, such as maintenance yards, would have been much more fiscally prudent than leasing or pay as you go. Finally, changes to chapter 451 of the Transportation Code are necessary to bring statute into line with current business practices recommended by the Sunset Commission review in 2013.

NOTES:

HB 1764 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring certain disclosure for rental-purchase agreements

HB 1859 by Simmons (V. Taylor)

DIGEST: HB 1859 would have required a merchant that did not derive at least half its revenue from rental-purchase agreements to make certain disclosures to a consumer before presenting a rental-purchase agreement for merchandise. The merchant would have been required to disclose, separately from the agreement, the price for which the merchant would sell the merchandise for cash, as well as the number and amount of periodic payments required by the agreement and needed to acquire ownership of the merchandise.

When a rental-purchase agreement was presented, the merchant also would have been required to issue a disclosure entitled “Acknowledgement of Rental-Purchase Transaction” identifying several conditions to which consumers would have been subject under the agreement.

GOVERNOR’S REASON FOR VETO: “House Bill 1859 overregulates both retailers and their customers. It would require retail stores to impose elaborate and duplicative paperwork on customers who are interested in rent-to-own agreements. The bill also favors some retailers over others. Its burdensome new requirements would apply only to stores that do not specialize in rent-to-own agreements.”

RESPONSE: Neither **Rep. Ron Simmons**, the bill’s author, nor **Sen. Van Taylor**, the Senate sponsor, had a comment on the veto.

NOTES: The HRO analysis of HB 1859 appeared in Part One of the April 27 *Daily Floor Report*.

Changing tax rate requirements for county assistance districts

HB 2182 by Reynolds (Miles)

DIGEST: HB 2182, for the purpose of determining a combined sales tax rate, would have excluded from the territory of a county assistance district both rights-of-way and any area with a county facility and with no business to which a sales tax permit had been issued.

GOVERNOR'S REASON FOR VETO: "House Bill 2182 could be interpreted to result in certain limited geographical areas becoming subject to a local sales tax rate above the legal limit. The two percent cap on local sales tax must never be exceeded. House Bill 2182 should have been drafted with greater clarity to exclude any possibility that sales tax above the maximum allowable rate would ever be charged."

RESPONSE: **Rep. Ron Reynolds**, the bill's author, said: "I am deeply disappointed that Gov. Abbott chose to veto HB 2182 that only affected six counties in Texas: Crane, Fort Bend, Jim Hogg, Randall, Rockwall, and Zapata. Each of these counties has at least one county assistance district. The idea for this legislation came from a current Fort Bend County commissioner, and he saw the need to make a change in the law to allow for more flexibility within the county assistance districts.

"HB 2182 would have allowed the county to annex county roads, parks, and facilities that they are currently not able to annex. County assistance districts would have been able to fund county roads and facilities with sales taxes, reducing the use of property taxes. The governor's interpretation of the bill was not correct. It was not going to allow the local sales tax rate to go above the legal limit, which is 2 percent. The rate would have stayed at 2 percent and allowed more flexibility in how that money was spent within the county assistance districts' boundaries."

Sen. Borris Miles, the Senate sponsor, said: "HB 2182 would have been beneficial to the taxpayers of Fort Bend County. After speaking with the governor's office, the veto was on a technicality and the governor pledged to offer language for us to work on this bill for next session."

NOTES: HB 2182 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Penalizing violation of a rule under the Flood Control and Insurance Act

HB 2334 by Oliverson (Garcia)

DIGEST: HB 2334 would have made it a class C misdemeanor to violate a rule or order adopted under the Flood Control and Insurance Act in regard to a property in a county with more than 75,000 people.

GOVERNOR'S REASON FOR VETO: "House Bill 2334 would have made it a state law crime to violate flood plain rules issued by political subdivisions. It is currently a Class C Misdemeanor to violate various provisions of the Texas Water Code concerning floodplains. This bill would have given localities the ability to expand the contours of this crime merely by adopting local rules and orders. Violation of these local rules and orders is already punishable by a civil penalty. We need not create another crime, particularly one that is a moving target."

RESPONSE: **Rep. Tom Oliverson**, the bill's author, said: "I respectfully disagree with the governor in his decision to veto HB 2334. Flooding is an issue across the state, but especially in Harris County, which I represent. It is difficult to enforce flood control rules because counties are limited to filing a lawsuit in civil court, which can take up to five years and lots of taxpayer dollars to resolve a violation. So I filed HB 2334 to provide Harris County access to the same enforcement tools that other counties are using to resolve violations by writing a ticket instead of filing a lawsuit. It is more expedient, cheaper, and less intrusive than the current civil suit method. Vetoing the bill leaves the current law vague and continues the inconsistencies between counties that presume to have this authority already and those that want a clear statement in statute. Undaunted, I will continue to work to find ways to reduce flooding."

Sen. Sylvia Garcia, the Senate sponsor, had no comment on the veto.

NOTES: HB 2334 was not analyzed in a *Daily Floor Report*.

Establishing a brackish groundwater operating permit process

HB 2377 by Larson (Perry)

DIGEST: HB 2377 would have established a process for groundwater conservation districts (GCDs) to issue well operating permits with a minimum 30-year term to produce brackish groundwater for projects to generate electricity or provide a public source of drinking water. A permit would have had to allow a rate of withdrawal of brackish groundwater not to exceed, and consistent with, the amount a designated zone was capable of producing. A GCD would have been required, to the extent possible, to issue permits up to the point that the total volume of groundwater produced in a zone equaled the amount of brackish groundwater that could be produced annually to achieve groundwater availability as described by the Texas Water Development Board.

A permit holder would have been required to submit annual reports on the amount of brackish groundwater withdrawn, the average monthly water quality, and the levels of the aquifer in the production zone. A GCD could have amended the applicable permit to limit water production, approve a mitigation plan, or both, if brackish groundwater production was projected to negatively impact aquifer levels or water quality or cause subsidence.

**GOVERNOR'S
REASON FOR
VETO:**

“House Bill 2377 sought to authorize groundwater conservation districts to implement special permitting rules relating to the completion and operation of wells for the withdrawal of brackish groundwater. The bill’s permitting rules are unduly prescriptive and would create a separate and complex bureaucratic process for the permitting of brackish wells. The Texas Water Development Board already has significant authority in this area, including the ability to designate brackish groundwater production zones and to approve local water management plans. While the development of brackish water resources as a potential means of meeting our state’s future water needs is important, House Bill 2377 went about it the wrong way. The next Legislature should consider a simpler and less bureaucratic way to provide greater access to brackish water.”

RESPONSE: **Rep. Lyle Larson**, the bill’s author, said: “In 2011, Texas experienced its single worst one-year drought in state history, resulting in an estimated \$7.62 billion in economic losses to ranchers and farmers alone. According to scientists from the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), and the Texas Water Development Board (TWDB), based on tree ring analysis and data collected over the last five centuries, Texas will experience a two- to five-year drought in the next century. A five-year drought model developed by the TWDB this year indicates that if 2011 drought conditions persisted for five years in a row, 70 of Texas’ 117 monitored

reservoirs would be completely dry and median aquifer levels would decrease anywhere from 3.5 feet to 84 feet, depending on the aquifer. Surface water and groundwater resources, upon which municipalities, farmers and ranchers, and commercial industries depend, would be devastated. To prepare for such a drought, we must seek to diversify the state's water resources to include more aggressive development of drought-resistant brackish groundwater resources over cheaper but scarcer fresh groundwater resources.

“In 2015, the 84th Legislature passed HB 30, directing the TWDB to identify and designate brackish groundwater production zones where brackish groundwater can be produced with minimal impact on quantity or quality of fresh groundwater. The TWDB has completed studies of several aquifers with several more underway. This allows the state to better understand where the prolific areas of brackish water exist that are not at risk of being impacted by existing wells, and identify those that are in proximity to population centers for future development.

“HB 2377 sought to build on the efforts of HB 30 by requiring groundwater districts to develop rules governing the issuance of permits to withdraw brackish groundwater within designated brackish zones. To incentivize development, the rules include withdrawals consistent with TWDB determinations of availability and reasonable reporting and monitoring requirements, in exchange for a 30-year minimum permit term to provide certainty for ratepayers and investors that seek to develop more costly brackish groundwater desalination projects over less expensive freshwater projects. The bill was appropriately prescriptive to ensure that the rules adopted by groundwater conservation districts would not prevent brackish groundwater permittees within a zone from pumping the amount of water to which they are entitled, while at the same time protecting adjoining freshwater resources.

“HB 2377 follows several sessions of negotiations and work with groundwater districts, water suppliers, and other interested stakeholder groups. This compromise reflects an effort to provide critically needed certainty to incentivize project development, while at the same time providing districts with tools to manage the resource. While the TWDB has the ability to designate brackish groundwater production zones, the board does not have the ability to permit brackish groundwater in the zones or anywhere else in the state because it does not regulate groundwater production. HB 2377 was an important step toward ensuring science-based groundwater management for one of the state's most important future water supplies: brackish groundwater.

“We will continue to work to enact water policy to secure Texas' water future in preparation for the next drought for the betterment of all Texans.”

Sen. Charles Perry, the Senate sponsor, had no comment on the veto.

NOTES:

HB 2377 was not analyzed in a *Daily Floor Report*.

Extending the terms of groundwater exporting permits

HB 2378 by Larson (Perry)

DIGEST: HB 2378 would have extended a permit to export groundwater outside the boundaries of a groundwater conservation district to no shorter than the term of the associated operating permit. It also would have automatically extended the exporting permit for each additional term the operating permit was renewed or remained in effect. The exporting permit would have remained subject to conditions contained in the permit as issued before the automatic extension.

GOVERNOR'S REASON FOR VETO: "House Bill 2378 would have essentially mandated that export permits issued by groundwater conservation districts be extended indefinitely. An indefinite permit hinders the public from participating in the decision-making of the groundwater conservation district. It does not, however, prevent the groundwater conservation district from changing the terms of the permit unilaterally, a power House Bill 2378 continues to allow these districts to exercise. Excluding the public, potentially in perpetuity, from the decisions of a groundwater conservation district will reduce transparency and inhibit the district's ability to respond to changed circumstances over time. The next Legislature should consider legislation that accomplishes the goals of House Bill 2378 without its defects."

RESPONSE: **Rep. Lyle Larson**, the bill's author, said: "The extension of an export permit to coincide with a production permit and subsequent alignment of those permits would reduce uncertainty for all parties, without jeopardizing a district's ability to manage an aquifer. The permits do not then become one under HB 2378; rather, they remain separate permits if the district currently issues separate permits. They are not renewed automatically into perpetuity; rather, renewal is subject to Texas Water Code sections 36.1145 and 36.1146, both of which were enacted into law by SB 854 by the 84th Legislature, a bill the governor signed.

"Sec. 36.1145 requires renewal of a permit without a hearing only if the permit holder is not requesting a change that would require a permit amendment under the rules of the district. Those rules were in turn created through a public rulemaking process. This leaves broad authority for the district to manage the aquifer through its rules. Sec. 36.1146 goes on to specifically preserve a district's ability to initiate changes in operating permits, in connection with the renewal of a permit or at other times, in accordance with district rules, again clearly allowing districts to manage permits and fulfill their regulatory goals.

"Potential expiration of export authorization before production authorization creates unnecessary uncertainty for landowners and water utilities investing hundreds of millions of ratepayer dollars in major water projects. Extension of export

authorization to coincide with production authorization would simply reduce this uncertainty.

“HB 2378 was the result of an extensive stakeholder process and agreed to by a wide-ranging group of water interests, including groundwater conservation districts, groundwater developers, industry, and agricultural interests. We will continue to work to enact water policy to secure Texas’ water future in preparation for the next drought for the betterment of all Texans.”

Sen. Charles Perry, the Senate sponsor, had no comment on the veto.

NOTES: The HRO analysis of HB 2378 appeared in Part One of the April 26 *Daily Floor Report*.

Allowing voting by mail in certain runoff primary elections

HB 2410 by Israel (Zaffirini)

DIGEST: HB 2410 would have allowed the state chair of a political party by order to require a runoff primary election to be conducted in a county only by mail under certain circumstances. Such an order could have been made if fewer than 100 votes were cast in the county in the party's general primary election and if a runoff election was required only for statewide offices or district offices filled by voters of more than one county.

The county clerk would have been required to send an official ballot to each registered voter in a county who voted in the party's general primary election or requested in writing a ballot and was otherwise eligible to vote. The bill would have established requirements for those who did not vote in the party's general primary election and did not vote in any other party's primary election to request a runoff primary election ballot to be voted by mail or returned in person in certain cases.

All ballots voted by mail or returned in person would have been counted in the same way as a ballot voted by mail under current law. The county clerk would have been reimbursed for the costs of the mail-only election from the same funds that would provide for a runoff primary election by personal appearance.

**GOVERNOR'S
REASON FOR
VETO:**

"Mail-in ballot fraud is a serious problem that should be addressed by the Legislature in the upcoming special session. House Bill 2410 would have provided for mail-ballot-only elections in certain circumstances in small counties. While there is cost to taxpayers associated with holding live elections, ensuring the integrity of our electoral process is well worth it."

RESPONSE:

Rep. Celia Israel, the bill's author, said: "HB 2410 would have saved the state more than \$100,000 an election cycle. This permissive bill would have allowed vote-by-mail primary runoff races only for multi-county officials, such as judges and statewide officers. Sending voters a ballot by mail for primary runoffs when no local official is on the ballot would have led to much greater participation by rural Texans in our primary runoffs."

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES:

HB 2410 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring state agencies to develop written succession plans

HB 2463 by Price (Hughes)

DIGEST: HB 2463 would have required each state agency to develop a written succession plan identifying and developing mechanisms to ensure the transfer of institutional knowledge from experienced and retiring employees to succeeding employees. Agency plans also would have identified skills and abilities needed for development of succeeding employees. The plans would have been updated annually, submitted to the state auditor, and posted on the agency's website.

GOVERNOR'S REASON FOR VETO: "State agencies should be encouraged to continually consider new ideas and new perspectives in a constant effort to reduce cost and improve service for the taxpayers. While House Bill 2463 was well-intentioned, its practical effect could have been to encourage a business-as-usual culture in state government. Bureaucracies are too often inclined to resist innovation and place an outsized value on the organization's old way of doing things. State employees should be encouraged to propose better ways to serve the taxpayers, not taught to do their job just the way their predecessor did it. Additionally, the purposes of House Bill 2463 are, in many respects, already achieved by Section 2056.0021 of the Government Code, which provides that 'a state agency shall conduct a strategic staffing analysis and develop a workforce plan, according to guidelines developed by the state auditor, to address critical staffing and training needs of the agency, including the need for experienced employees to impart knowledge to their potential successors.'"

RESPONSE: **Rep. Four Price**, the bill's author, said: "Succession planning is not a new concept to the private business sector. The concept of transferring knowledge from retiring employees to their successors has long been practiced successfully by Fortune 500 companies and small businesses. Each of these enterprises recognize that the experiences and skills gained by their future retirees are valuable assets that the business paid for and, as such, should be passed on to their successors. There is also recognition that not all skills and know-how acquired by the soon-to-be retiree may be contained in a policy or procedure manual.

"The utilization of succession planning has risen significantly from the advent of the first baby boomer becoming retirement eligible. It is estimated that each single day approximately 10,000 baby boomers retire. This staggering rate has, in recent years, also garnered the attention of local and state governments. Several states of varied population sizes have written succession plans in place, including Alaska and Ohio.

“Several publications which focus on government have highlighted the need for such application by all types of governmental operations. For instance, *Governing* ran a February 10, 2016, article entitled, ‘Why Governments Need to Ramp Up Succession Planning,’ and more recently Texas Municipal League’s *Texas Town & City* magazine featured an article by the city manager of Irving, Texas, entitled, ‘Succession Planning: A Game Plan for Future Success.’ The transfer of knowledge includes institutional, innovative, and recently acquired knowledge up to the date of retirement.

“The number of retirements at Texas executive branch state agencies exceeded 25 percent for the past two consecutive years. As a result, Texas state agencies are losing the valuable knowledge which taxpayers paid to develop. Save for the scant statement of ‘the need for experienced employees to impart knowledge to their potential successors’ contained in the one sentence in section 2056.0021, Workforce Planning, Texas Government Code, there is no detailed Texas law for ensuring how that knowledge is to be actually transferred. Furthermore, there is little or no accountability for adequate succession planning for long-term success. This was sought to be remedied by the enactment of HB 2463, which passed by a vote of 144-0 in the Texas House of Representatives and a vote of 31-0 in the Texas Senate and which had no known opposition until the veto.”

Sen. Bryan Hughes, the Senate sponsor, had no comment on the veto.

NOTES: HB 2463 was digested in Part One of the May 4 *Daily Floor Report*.

Applying sales and use tax exemption to certain Broadway shows

HB 2475 by S. Davis (Bettencourt)

DIGEST: HB 2475 explicitly would have specified that touring Broadway performances were exempt from sales taxes if they were provided under a contract with certain terms to certain entities, including churches, schools, or charitable organizations, that currently are exempt from sales taxes when providing amusement services.

GOVERNOR'S REASON FOR VETO: "House Bill 2475 would have provided a special sales tax loophole for tickets to Broadway shows. As required by the constitution and by basic fairness, Broadway shows should be treated just like any other comparable event for tax purposes."

RESPONSE: **Rep. Sarah Davis**, the bill's author, said: "HB 2475 would have allowed the comptroller to fairly target the administrative rules related to the amusement services tax exemption, while also protecting and encouraging the treasured pastime of attending Broadway productions. This exemption has been in statute since 1984, and currently the revenue for tickets sold to these productions are exempt from sales tax. Last year, the comptroller signified interest in amending this tax exemption and the related rules. This exemption has allowed nonprofits, such as the Hobby Center in Houston, to bring Broadway productions to our state, which has generated substantial revenue that provides a reinvestment in arts programming and educational outreach within communities. I worked directly with the comptroller's office on the language of the bill due to the importance of the exemption to my community and to the Houston arts community as a whole. I am disappointed that this will no longer be available to the Hobby Center, which has provided cherished memories to countless Broadway lovers across the city of Houston and the state of Texas."

Sen. Paul Bettencourt, the Senate sponsor, had no comment on the veto.

NOTES: HB 2475 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Creating an offense for installation of unsafe motor vehicle tires

HB 2774 by Phelan (Rodríguez)

DIGEST: HB 2774 would have made the installation of unsafe tires on a motor vehicle a misdemeanor crime punishable by a fine ranging from \$100 to \$500. The offense would have been committed by owners or operators of businesses that installed an unsafe tire on a vehicle for use on a public street or highway. The bill would have required that an owner or operator who committed an offense have known that the installed tire was unsafe according to conditions described in the bill, including inadequate tread depth or other evidence of damage or excessive wear.

GOVERNOR'S REASON FOR VETO: "House Bill 2774 would have created a new crime for installation of faulty tires on vehicles. Texas does not need to impose new criminal penalties on people who put tires on cars. For the past two sessions, the legislature has passed several laws aimed at limiting the reach of criminal penalties and reducing the burden of criminal records. This bill goes in the opposite direction. Nobody wants bad tires on the road, but creating a new crime is not the answer to every problem."

RESPONSE: **Rep. Dade Phelan**, the bill's author, had no comment on the veto.

Sen. José Rodríguez, the Senate sponsor, said: "This was a common sense bill that would have improved road safety by making sure that only tires that can meet the Department of Public Safety's inspection standards are put on vehicles. That's why it was supported by AAA Texas and insurers."

NOTES: The HRO analysis of HB 2774 appears in Part Three of the May 2 *Daily Floor Report*.

Assessing costs and fees in certain lawsuits under public information laws

HB 2783 by Smithee (Watson)

DIGEST: HB 2783 would have allowed a court, except in certain circumstances, to assess costs of litigation and reasonable attorney fees incurred by a plaintiff to whom a governmental body voluntarily had released requested information after having filed an answer to a lawsuit under certain public information laws.

GOVERNOR'S REASON FOR VETO: "By threatening the taxpayers with attorneys' fees, House Bill 2783 creates an incentive for requestors of public information to sue the government as quickly as possible instead of waiting for the statutorily defined public information process to play out. The stated purposes of this bill could have been achieved without giving lawyers the ability to threaten taxpayer-funded attorneys' fees awards against governmental bodies that are just trying to follow the law."

RESPONSE: **Rep. John Smithee**, the bill's author, said: "I am disappointed that HB 2783 was vetoed after having worked with the governor's staff and various governmental entities to address their concerns during the legislative process. The governor's veto statement contains inaccuracies about the specifics of this legislation. This bill would have encouraged transparency by discouraging public entities from dragging their feet in responding to public information requests. While the vast majority of public entities are responsible in their handling of these requests, at times some intentionally refuse to comply, forcing the requestor to make the decision to either abandon their request or file a lawsuit demanding the information be released. The bill would have given a judge the discretion to award attorney fees if the public entity did not turn over public documents after a lawsuit had been filed and the public entity had responded to the suit. HB 2783 was good public policy that I believe should be revisited by the Legislature in the future."

Sen. Kirk Watson, the Senate sponsor, said: "HB 2783 would have allowed, but not required, a court to assess reasonable court costs and attorney fees against governmental bodies that abuse the Public Information Act by forcing requestors to sue before they turn over public information. It's unfortunate that the governor vetoed this narrowly tailored and common-sense solution, which received unanimous support in both legislative chambers."

NOTES: HB 2783 was digested in Part Two of the May 1 *Daily Floor Report*.

Property tax exemptions for certain housing authorities

HB 2792 by González (Rodríguez)

DIGEST: HB 2792 would have extended tax exemptions under the state’s Housing Authorities Law to a multifamily residential development owned by an entity similar to a housing development corporation that was created by a housing authority, met existing criteria for tax exemptions in state law, and that had fewer than 20 percent of its units reserved for:

- public housing units;
- rent-restricted units subsidized by a housing authority; or
- a combination of public housing and rent-restricted units.

The bill would have defined a “public housing unit” to mean a dwelling unit for which the owner receives a public housing operating subsidy or used to receive a public housing operating subsidy if the dwelling unit was subsequently converted through the federal Rental Assistance Demonstration program. The definition would have included a Section 8 dwelling unit that had been converted under the federal program.

For municipal housing authorities that require one or more commissioners to be a tenant of a public housing project, HB 2792 would have allowed the required commissioner to be a recipient of housing assistance administered through the authority’s housing choice voucher program or project-based rental assistance program, rather than be a public housing tenant. The bill would have prohibited a commissioner who was a public housing tenant, a housing assistance recipient, or a project-based rental assistance recipient from participating in any vote or discussion concerning the commissioner’s occupancy rights in public housing, rights to housing assistance, or rights to a project-based rental assistance program.

GOVERNOR’S REASON FOR VETO: “House Bill 2792 sought to expand the property tax exemptions currently applicable to government-subsidized housing. More property tax exemptions means more property tax burden on property owners who are not exempt.”

RESPONSE: **Rep. Mary González**, the bill’s author, said: “I have vigorously worked to ensure that my constituents have access to housing through affordable and low-income housing programs. The intention of this legislation was to make technical changes to update state law to allow public housing authorities to continue to be able to qualify for existing property tax exemptions and for residents of HCV or PBRA units to serve as a resident commissioner. I will continue my efforts to guarantee that families statewide have access to homes.”

Sen. José Rodríguez, the Senate sponsor, said: “This bill would not have increased property tax exemptions; it would have maintained the status quo. These properties are already not paying property taxes through their Public Housing Agency tax exemptions. Now, public housing authorities may be discouraged from doing much-needed renovations, leaving low-income residents with fewer affordable living options.”

NOTES:

HB 2792 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing a wastewater reuse pilot program in Harris County

HB 2798 by Farrar (Creighton)

DIGEST: HB 2798 would have allowed Harris County to implement a pilot program to reuse any form of wastewater at a county facility for subsurface irrigation and toilet and urinal flushing if the wastewater had been treated at the facility before reuse. The bill would have allowed the Texas Commission on Environmental Quality to adopt rules to ensure that such a program did not create a nuisance, threaten human health, or damage the quality of the state's ground and surface water.

GOVERNOR'S REASON FOR VETO: "This legislation is not needed. Domestic wastewater reuse is already authorized under Texas law pursuant to regulations issued by the Texas Commission on Environmental Quality."

RESPONSE: **Rep. Jessica Farrar**, the bill's author, said: "I respectfully disagree with Gov. Abbott's statement that 'this legislation is not needed.' While statute does currently allow for blackwater reuse, it does not allow for blackwater to be treated on-site for direct reuse. Statute currently allows only graywater to be treated on-site for direct reuse. This means that Texas Commission on Environmental Quality (TCEQ) rules allow for the reuse of blackwater once it goes through a more traditional off-site treatment plant, but TCEQ rules do not allow blackwater to be treated on-site for reuse on-site.

"Harris County facilities would have benefited from the passage of this bill. One of the project examples the county had in mind was to utilize wastewater reuse for remote park restrooms along trails or in remote areas of parks. From a wastewater perspective, remote park restrooms are challenging because there is typically no sewer anywhere nearby; or, if there is sewer nearby, it is usually a very long run of sewer that can be prone to inflow or infiltration (leaky sewage pipes) and require a costly lift station to convey the sewage. HB 2798 would have allowed Harris County to address its wastewater needs using new tools gained by the bill, resulting in building and operating remote restrooms that make more financial sense, while also better preserving limited water resources."

Sen. Brandon Creighton, the Senate sponsor, had no comment on the veto.

NOTES: HB 2798 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Creating a program to promote conservation easements

HB 2943 by Larson (Perry)

DIGEST: HB 2943 would have required the Texas Water Development Board (TWDB) to create a program promoting the purchase of conservation easements with funds from the state water pollution control revolving fund. TWDB would have had to determine that such an easement would have a demonstrable impact on water quality control.

The bill also would have extended the maximum loan term offered by TWDB through the revolving fund from 20 years to the lesser of 30 years or the projected useful life of the project.

GOVERNOR'S REASON FOR VETO: "House Bill 2943 makes several changes to the State Water Pollution Control Revolving Fund, most of which can be administered without the statutory mandates prescribed by this legislation. Such statutory mandates are unnecessary and tie the hands of program administrators, impeding the State's ability to continue the program's positive impacts on the promotion of quality water. The bill also lengthens the allowable term of loans made by the program, thus extending the program's debt liability. Additionally, while conservation easements can serve a valid purpose, using acquisition of easements is not the best use of this particular fund."

RESPONSE: **Rep. Lyle Larson**, the bill's author, said: "The purpose of the Clean Water State Revolving Fund is to provide loans to eligible recipients to construct municipal wastewater facilities, control nonpoint sources of pollution, build decentralized wastewater treatment systems, create green infrastructure projects, protect estuaries, and fund other water quality projects. Of the \$6.784 billion in Texas administered from the fund from 1988-2016, only \$8.35 million went to projects designed to combat nonpoint source pollution, and no funds were specifically used for land conservation. Water quality is in part a function of the health of our private lands, as grasslands, forests, and wetlands all provide valuable water treatment services, particularly for nonpoint source pollutants associated with stormwater runoff. Both water quality and quantity can be protected through voluntary conservation programs, such as conservation easements, that incentivize private landowners to conserve land with significant water protection potential. By adopting rules to encourage land conservation for nonpoint source pollution reduction, the Texas Water Development Board can cost effectively protect critical water quality areas and aquifer recharge zones on private lands while continuing to utilize the fund for other water quality projects. HB 2943 was modeled after successful programs in other states that have amplified land conservation for water protection through creative adaptations of their state revolving funds."

“HB 2943 provides specific legislative direction to the Texas Water Development Board to encourage the acquisition of conservation easements that would have a demonstrable impact on water quality and be consistent with the perpetuity of the fund. Several provisions in the bill, including the extension of the maximum loan term from 20 to 30 years, were incorporated in the bill at the request of the Texas Water Development Board in order to conform to changes in federal rules for the fund.

“We will continue to work to enact water policy to secure Texas’ water future in preparation for the next drought for the betterment of all Texans.”

Sen. Charles Perry, the Senate sponsor, had no comment on the veto.

NOTES:

HB 2943 was digested in Part One of the April 27 *Daily Floor Report*.

Capping, repairing, or plugging abandoned or deteriorated water wells

HB 3025 by T. King (Rodríguez)

DIGEST: HB 3025 would have distinguished between the requirements for an “abandoned water well” and a “deteriorated water well” and modified some of the associated obligations relating to deteriorated water wells. Specifically, the bill would have required the owner of a deteriorated well to repair or plug, rather than close or cap, the well within 180 days of learning of its condition.

Under the bill, a groundwater conservation district would have issued notice requiring the owner of a deteriorated well to plug or repair it. If the landowner failed or refused to repair or plug the well within 10 days of receiving notice, the district or an affiliated contractor could have accessed the land to repair or plug the well.

Employees of the Bandera County River Authority and Groundwater District could have capped an open, uncovered, or abandoned well, or repaired or plugged a deteriorated well if they received training on how to complete these tasks for a well located in a karst topographic area.

GOVERNOR'S REASON FOR VETO: “House Bill 3025 would have authorized a groundwater district to determine when a landowner’s well has deteriorated and to compel the landowner to repair the deteriorated well to the district’s satisfaction. If the landowner does not do so within ten days, the bill authorizes the water district to enter the landowner’s land, repair the well, and send the landowner the bill. This would give groundwater districts greater discretion to infringe on private property rights and impose costs on landowners. The legitimate need to repair deteriorated wells should be addressed in a way that provides more protections for landowners.”

RESPONSE: **Rep. Tracy O. King**, the bill’s author, had no comment on the veto.

Sen. José Rodríguez, the Senate sponsor said: “Across Texas there may be thousands of abandoned or deteriorated water wells that are not properly capped. These wells allow for pollution of fresh groundwater aquifers and may damage adjacent land and infrastructure. It’s disappointing that this common-sense legislation to protect our most valuable natural resource was vetoed after having previously passed both chambers overwhelmingly.”

NOTES: HB 3025 was digested in Part Four of the May 2 *Daily Floor Report*.

Changing restrictions on elections administrators' political activities

HB 3055 by Guillen (Lucio)

- DIGEST:** HB 3055 would have allowed the elections administrator from a county with population of less than 1,000 to hold or be a candidate for public office if no part of the jurisdiction of the office was located in the county where the person served as the elections administrator and any election for that office was a nonpartisan election.
- GOVERNOR'S REASON FOR VETO:** “To preserve public confidence in our elections, the government employees who administer those elections must be beyond reproach. For this reason, current law prohibits county elections administrators from holding elected office. This is a good rule that separates politics from the administration of elections. It should not be changed.”
- RESPONSE:** **Rep. Ryan Guillen**, the bill’s author, said: “Tiny counties with less than a thousand residents often have a shortage of qualified and experienced individuals to fill important roles, sometimes resorting to hiring folks from nearby towns in other counties. This bill would have helped preserve public confidence in our elections by better ensuring that qualified individuals are running elections in our smallest counties. We had no idea that the governor had concerns with this concept before it was vetoed.”
- Sen. Eddie Lucio, Jr.**, the Senate sponsor, had no comment on the veto.
- NOTES:** HB 3055 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Homestead preservation districts and reinvestment zones in Austin

HB 3281 by E. Rodriguez (Watson)

DIGEST: HB 3281 would have revised a population bracket in current law that no longer includes the city of Austin to allow the city to establish new homestead preservation reinvestment districts. Such districts allow a city to use property taxes collected from the district to provide tax-exempt bond financing, density bonuses, and other incentives in the district.

GOVERNOR'S REASON FOR VETO: “House Bill 3281 would have extended a City of Austin program that gives special tax treatment to certain neighborhoods at the expense of other taxpayers, with the apparent goal to stymie the natural forces of the free market. Directing large amounts of property tax revenue to select city projects has the effect of increasing the tax burden on other property owners. We should not empower cities to spend taxpayer money in a futile effort to hold back the free market.

“The best way to ensure people do not lose their home because of rising property taxes is to cut property taxes. This bill does nothing to lessen the tax burden for Texans on the verge of being taxed out of their home. It merely permits the City of Austin to continue redirecting tax dollars for city-initiated redevelopment. If the City of Austin is concerned about rising taxes displacing its residents, it should reconsider its tax policies or its spending priorities.”

RESPONSE: **Rep. Eddie Rodriguez**, the bill’s author, could not be reached for comment on the veto.

Sen. Kirk Watson, the Senate sponsor, said “This veto by the governor does nothing but hurt families looking to sleep with a roof over their head at night. A homestead preservation district uses one of the same types of tools cities and counties use for other priorities, be it economic development, new infrastructure, or merely assistance for families of disabled veterans — focusing certain tax dollars on local communities. I believe measures that can help keep families in their homes should be a priority, and this bill would have done just that.”

NOTES: HB 3281 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Using state participation account funds for desalination or ASR facilities

HB 3987 by Larson (Hinojosa)

DIGEST: HB 3987 would have created a new account that the Texas Water Development Board (TWDB) could have used to provide financial assistance to develop a desalination or aquifer storage and recovery (ASR) facility under the state water plan. TWDB would have been able to transfer funds between the existing state participation account and the new state participation account II.

TWDB would not have had to adhere to any board rules regarding the portion of the cost of a facility to be financed from sources other than the state participation account II. The board would have been exempt from making certain findings when using funds from the new account to acquire a facility, except that it would have been required to find that it was reasonable to expect that the state would recover its investment in the facility and that the acquisition would serve the public interest.

GOVERNOR'S REASON FOR VETO: “House Bill 3987 would have created a new state account to provide taxpayer funding for the acquisition and development of certain water facilities. These facilities are already eligible for state funding under the Texas Water Development Fund II state participation account, provided that they cannot be adequately funded with local resources. The purpose of that requirement is to ensure that state resources are used in an efficient manner by denying funding for local projects that already have access to sufficient financial resources. House Bill 3987 exempts desalination and aquifer facility projects from meeting this financial requirement. Additionally, because current law already authorizes the Texas Water Development Board to provide funding for desalination and aquifer storage and recovery facilities, House Bill 3987 is largely unnecessary. The next Legislature should seek to promote desalination and aquifer projects more effectively.”

RESPONSE: **Rep. Lyle Larson**, the bill’s author, said: “The State Participation Fund was created to allow the state to purchase excess capacity in ‘surface water reservoirs and water pipelines’ where additional demand is anticipated but could not be financed by the existing population. To date, the fund has only been used for these types of projects. HB 3987 would give clear direction that the state should create a separate fund that focuses on desalination and aquifer storage and recovery technologies that were not feasible or widely used when the State Participation Fund was created, thereby reflecting the latest technologies available for water supply and water storage projects. HB 3987 represents a shift in policy from the State Participation Fund to expand existing authority for the Texas Water Development Board to purchase an ownership interest, or directly invest in a desalination and/or aquifer storage and recovery project. Since the Texas Water Development Board could be acting

singly to develop a project through the program, there would be no local partner, and therefore no need for a requirement that a local entity demonstrate an ability to fund the project. The State Participation Fund II would retain the requirement that it can only be used for a project for which the Texas Water Development Board has found the state is expected to recover its investment and that the project is in the best interest of the state.

“The State Participation Fund II is an enhancement of the existing State Participation Program that would bring more money to bear for critically needed water projects through potential public-private partnerships, and would have accelerated the development of innovative water technologies in the State of Texas.

“We will continue to work to enact water policy to secure Texas’ water future in preparation for the next drought for the betterment of all Texans.”

Sen. Juan “Chuy” Hinojosa, the Senate sponsor, had no comment on the veto.

NOTES:

The HRO analysis of HB 3987 appeared in Part Two of the May 1 *Daily Floor Report*.

Allowing LaSalle MUD No. 1 to impose assessments on property

HB 4310 by Isaac (Zaffirini)

- DIGEST:** HB 4310 would have specified the members of the temporary board of directors of LaSalle Municipal Utility District (MUD) No. 1. It also would have established requirements, including a petition and hearing process, for the board to follow in financing the construction or maintenance of a recreational facility project or improvement with assessments on property. The bill would have exempted certain utilities and telecommunications providers from any assessment imposed by the district.
- GOVERNOR'S REASON FOR VETO:** "The bill author requested a veto of this bill because he prefers the companion Senate Bill."
- RESPONSE:** **Rep. Jason Isaac**, the bill's author, said: "Two versions of this bill, with a few minor differences, passed both chambers. I requested that Gov. Abbott sign the Senate version into law."
- Sen. Judith Zaffirini**, the Senate sponsor, had no comment on the veto.
- NOTES:** HB 4310 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing LaSalle MUD No. 2 to impose assessments on property

HB 4311 by Isaac (Zaffirini)

DIGEST: HB 4311 would have specified the members of the temporary board of directors of LaSalle Municipal Utility District (MUD) No. 2 and would have modified the description of the district's territory. It also would have established requirements, including a petition and hearing process, for the board to follow in financing the construction or maintenance of a recreational facility project or improvement with assessments on property. The bill would have exempted certain utilities and telecommunications providers from any assessment imposed by the district.

GOVERNOR'S REASON FOR VETO: "The bill author requested a veto of this bill because he prefers the companion Senate Bill."

RESPONSE: **Rep. Jason Isaac**, the bill's author, said: "Two versions of this bill, with a few minor differences, passed both chambers. I requested that Gov. Abbott sign the Senate version into law."

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES: HB 4311 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing LaSalle MUD No. 3 to impose assessments on property

HB 4312 by Isaac (Zaffirini)

DIGEST: HB 4312 would have specified the members of the temporary board of directors of LaSalle Municipal Utility District (MUD) No. 3 and would have modified the description of the district's territory. It also would have established requirements, including a petition and hearing process, for the board to follow in financing the construction or maintenance of a recreational facility project or improvement with assessments on property. The bill would have exempted certain utilities and telecommunications providers from any assessment imposed by the district.

GOVERNOR'S REASON FOR VETO: "The bill author requested a veto of this bill because he prefers the companion Senate Bill."

RESPONSE: **Rep. Jason Isaac**, the bill's author, said: "Two versions of this bill, with a few minor differences, passed both chambers. I requested that Gov. Abbott sign the Senate version into law."

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES: HB 4312 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing LaSalle MUD No. 4 to impose assessments on property

HB 4313 by Isaac (Zaffirini)

DIGEST: HB 4313 would have specified the members of the temporary board of directors of LaSalle Municipal Utility District (MUD) No. 4 and would have modified the description of the district's territory. It also would have established requirements, including a petition and hearing process, for the board to follow in financing the construction or maintenance of a recreational facility project or improvement with assessments on property. The bill would have exempted certain utilities and telecommunications providers from any assessment imposed by the district.

GOVERNOR'S REASON FOR VETO: "The bill author requested a veto of this bill because he prefers the companion Senate Bill."

RESPONSE: **Rep. Jason Isaac**, the bill's author, said: "Two versions of this bill, with a few minor differences, passed both chambers. I requested that Gov. Abbott sign the Senate version into law."

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES: HB 4313 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing LaSalle MUD No. 5 to impose assessments on property

HB 4314 by Isaac (Zaffirini)

DIGEST: HB 4314 would have specified the members of the temporary board of directors of LaSalle Municipal Utility District (MUD) No. 5 and would have modified the description of the district's territory. It also would have established requirements, including a petition and hearing process, for the board to follow in financing the construction or maintenance of a recreational facility project or improvement with assessments on property. The bill would have exempted certain utilities and telecommunications providers from any assessment imposed by the district.

GOVERNOR'S REASON FOR VETO: "The bill author requested a veto of this bill because he prefers the companion Senate Bill."

RESPONSE: **Rep. Jason Isaac**, the bill's author, said: "Two versions of this bill, with a few minor differences, passed both chambers. I requested that Gov. Abbott sign the Senate version into law."

Sen. Judith Zaffirini, the Senate sponsor, had no comment on the veto.

NOTES: HB 4314 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Notification by schools lacking nurses, librarians, or counselors

SB 196 by Garcia (Coleman)

DIGEST: SB 196 would have required a public school or open-enrollment charter school to provide written notice to each student's parent or guardian if for more than 30 consecutive instructional days during a school year the school did not have assigned to it a full-time nurse, school counselor, or librarian. The principal would have provided the notice, which could have been posted on the school's website, no later than the 30th instructional day after the first day the nurse, counselor, or librarian was not present on campus. The bill would have applied only to a school district or charter with an enrollment of at least 10,000 students.

GOVERNOR'S REASON FOR VETO: "Our public schools should be focused on educating students in the classroom. Senate Bill 196 detracts from that focus and imposes a needless regulatory mandate on schools."

RESPONSE: **Sen. Sylvia Garcia**, the bill's author, said: "I respectfully disagree with Gov. Abbott's statement that SB 196 'detracts' from educating students in the classroom. Parents have a right to know if their children are being served by a full-time, or full-time-equivalent, school nurse, librarian, and counselor during the instructional day. School nurses, librarians, and counselors must all be certified by the State of Texas before serving in their respective positions. Parents should be notified if their child has access to the critical services provided by these certified administrators, who support and enhance student learning and achievement."

Rep. Garnet Coleman, the House sponsor, said: "It is disappointing that Gov. Abbott vetoed this important piece of legislation. SB 196 would have increased government transparency by notifying parents if important school support staff such as nurses, counselors, and librarians were not always available during school hours for greater than 30 days. A school nurse is often the medical professional that is easiest for a child to access and in some cases the only one. It is important that parents know whether or not this crucial medical professional is available to their child."

NOTES: SB 196 was digested in Part Three of the May 23 *Daily Floor Report*.

Regulating storage and movement of used or scrap tires

SB 570 by Rodríguez (Walle)

DIGEST: SB 570 would have regulated the storage, handling, transporting, and use of used or scrap tires and would have established penalties for violations of regulations related to the handling of used or scrap tires. Violations of the bill's provisions or of certain other rules, orders, permits, or exceptions granted or issued under the Health and Safety Code and relating to used or scrap tires would have been criminal offenses subject to fines and confinement terms that varied depending on whether the violation was committed recklessly, intentionally, or knowingly.

GOVERNOR'S REASON FOR VETO: "Senate Bill 570 criminalizes the violation of administrative rules governing the proper disposal of tires. In order to know whether their handling of used tires is a crime or not, Texans would have to consult the Texas Register and the actions of local governments on a regular basis to ensure the rules governing tire disposal have not changed. Surely there are better ways to address the problem of old tires than by creating a new and vaguely defined crime."

RESPONSE: **Sen. José Rodríguez**, the bill's author, said: "SB 570 would have helped communities deal with the problem of scrap tires being illegally dumped, an issue that is particularly troubling for local health authorities trying to prevent the spread of the Zika virus.

"What the governor has done is put the health and safety of Texans at risk by removing a tool that would have reduced illegally dumped tires, which are breeding grounds for mosquitoes that carry Zika and other dangerous illnesses.

"The governor vetoed this bill on the basis that Texans would have to regularly consult the Texas Register and the actions of local government to know if they are in violation of the laws related to tire disposal. In fact, under the current status quo, Texans must look to the Texas Register to find existing administrative rules put in place by Texas Commission on Environmental Quality. In contrast, the bill would have put the framework into state statute, clearly delineating requirements for proper disposal of scrap tires.

"It also would have given local governments the same civil and criminal enforcement tools that currently exist for other environmental violations in state law. That's why the tire industry — from manufacturers, to retailers, to processors — supported the bill, which they helped develop as part of a broad coalition that included health officials and local governments.

“More than 36 million tires are discarded each year in Texas, roughly one-and-a-half tires for every person residing in the state. Several million of these tires are illegally dumped each year, creating fire, pollution, and public health and safety risks, such as increases in vector-borne illnesses like Zika, West Nile, and dengue fever. For all these reasons, stakeholders wrote letters to Gov. Abbott in favor of the bill.

“‘S.B. 570 aims to address illegal tire dumping while updating and modernizing antiquated laws as was requested by industry participants,’ wrote Liberty Tire Recycling and other tire industry stakeholders. ‘S.B. 570 is not only negotiated and agreed to legislation but was requested by industry participants who seek to stem this illegal activity.’

“In another letter to Gov. Abbott, Goodyear Tire and Rubber wrote that SB 570 ‘is not over regulation. At best, it is the minimum regulation required.’

“The Texas Public Health Coalition, which includes over 30 health-related organizations including the Texas Medical Association, Texas Pediatric Society, and Texas Hospital Association, wrote that SB 570 ‘provides an important opportunity to take proactive steps against dangerous diseases.’

“Finding ways to deal with the issue has been a long-time top priority for cities, counties, and public health authorities. SB 570 was the first significant statewide legislation since the last attempts to deal with the issue in the 1990s, and was supported by a wide range of industry, health, local government, environmental, and other stakeholders. The list of participants and supporters totaled almost 40, split roughly equally among the different categories of stakeholder.

“The goal of SB 570 was to guarantee bad actors were stopped without overregulating the many model industry participants across the state. Given the participation and agreement of the many stakeholders and the absence of any opposition, I’m not sure how the governor came to his conclusion.”

Rep. Armando Walle, the House sponsor, said: “Gov. Abbott’s veto of SB 570 by Sen. José Rodríguez was a squandered opportunity to address the widespread public health and safety issues from illegal tire dumping. Two years of diligent work by a stakeholder group consisting of everyone who handles tires from cradle to grave to craft a balanced bill were cast aside in a veto statement that suggested the governor did not understand or refused to understand tire disposal and how it is currently regulated.

“The veto statement implied those in the industry would now suddenly have to consult the Texas Register to ensure rules have not changed — but that is exactly what industry participants already do right now, as most of the current regulatory structure for used and scrap tire disposal is by rule.

“It is many of these administrative rules that were used to map the statutory framework of the vetoed bill. But SB 570 would have put more teeth into the enforcement of used and scrap tire regulation by connecting violations to existing provisions in state law for other current environmental violations like those governing disposal of sewage or medical waste. By using familiar parameters and stronger financial responsibility requirements while cracking down on bad and reckless actors, the entities handling used and scrap tires regulated by the bill were actually critical in moving this public health legislation forward.

“I took interest in working on Sen. Rodríguez’s legislation after I learned last year about the role of tires in the spread of vector-borne illness like Zika or West Nile. In addition to facilitating the spread of mosquitoes, environmental and public safety hazards like the massive West Texas tire fire that burned for a week in April continue to be real problems for all Texans. The next time we read about a million-tire pile in some unincorporated part of a Texas county catching fire or that a city is frantically trying to clean small tire piles up because Zika or its successor has come to its neighborhoods, I want Texans to know that we had an agreed-to bill at the governor’s desk that would have mitigated future problems.”

NOTES:

The HRO analysis of SB 570 appeared in Part Two of the May 21 *Daily Floor Report*.

Monitoring and reporting on guardianships

SB 667 by Zaffirini (Smithee)

DIGEST: SB 667 would have required the Office of Court Administration (OCA) to establish a Guardianship Compliance Program that provided resources and assistance to courts handling guardianship cases. The program would have been designed to assist courts by engaging guardianship compliance specialists and maintaining an electronic database to monitor guardians' required filings and annual reports. The specialists would have reviewed guardianships and identified reporting deficiencies, audited required annual filings, worked with courts to develop best practices in managing guardianship cases, and reported to the appropriate court concerns relating to a ward's well-being or potential financial exploitation. OCA would have reported annually on the program to the Legislature.

GOVERNOR'S REASON FOR VETO: "This session the Legislature passed, and I have signed, several bills that improve the guardianship system in Texas. This is an important endeavor, and I look forward to seeing the effect of these needed reforms during the interim. Senate Bill 667 would have created a large new staff of state employees to oversee local guardianship arrangements at a cost of over \$5 million a biennium. We should give the new statutory reforms a chance to work, and we should continue to look for cost-effective ways to address this challenge. The creation of a new state bureaucracy should be a last resort."

RESPONSE: **Sen. Judith Zaffirini**, the bill's author, said: "I am grateful that Gov. Abbott signed seven of our guardianship reform bills, that he acknowledges this 'important endeavor,' and that he will monitor their effect during the interim. Simultaneously, however, I am shocked and dismayed that he vetoed my SB 667, which was the cornerstone of our guardianship legislative package, and only wish we had been given an opportunity to defend it. Because we work closely with the governor's staff and had no clue that any part of this bill was problematic, this unexpected veto is exceedingly disconcerting. A unanimous priority of the Texas Judicial Council and a top priority for Chief Justice Nathan Hecht, it was the culmination of a pilot project, an interim charge, and several hearings.

"Unfortunately, none of the bills signed by the governor address the most significant challenge facing our courts dealing with guardianships: decades of lack of proper oversight of guardians' actions. The veto of SB 667 will allow corruption and abuse to continue unchecked, empower bad actors, and leave \$5 billion in assets under guardianships without supervision. It also leaves approximately 53,000 persons, including those who are elderly or have disabilities, and their assets increasingly

vulnerable to predators. SB 667 would have resulted in a \$5 million investment to protect these vulnerable persons and their associated assets, at a cost of \$94 per person, which by any measure is a cost-effective initiative.

“Our pilot program in 2015-16, which SB 667 would have expanded statewide, demonstrated that we already had reached the point of ‘last resort’ and need to help our courts handle these cases better. The bill would have given courts access to much needed resources, such as a tracking database and state auditors, to assist in the review of these files. One judge described the pilot’s guardianship compliance specialists as ‘angels,’ and the program was so popular that it had a wait-list of counties that requested help to review and clean up their guardianship files. This is because most courts in our state, especially county and county courts-at-law, have long lacked the proper staff to fulfill their statutory duty to review guardianship reports. In fact, almost 40 percent of audited cases were found noncompliant with existing statutory requirements. More important, multiple instances of serious and previously undiscovered abuse and exploitation were uncovered.

“Worrisome findings included the bonds for guardians being waived by judges, though without statutory authority; no initial inventories of assets; missing assets – including, in one egregious case, an airplane; no annual reports of the person or of the estate; unauthorized use by some guardians of estates, particularly unauthorized ATM withdrawals, purchases, payments to credit cards, money transfers, and gifts to family members; lack of backup documentation, including bank statements, receipts, check copies, and invoices for the annual accountings; lack of required criminal background checks; missing court records and inappropriately sealed court orders; and lack of training and procedures for court personnel.

“In my home county, pilot project results indicated that Webb County Court-at-Law II was 90 percent noncompliant and that Webb County Court-at-Law I was 88 percent noncompliant. We are grateful that new judges are working to correct those situations, but SB 667 would have provided essential indispensable resources to ensure that they are able to do so.

“The risk of unsupervised, runaway guardians is not only financial abuse, but also neglect and exploitation. Through the pilot we learned about several neglect cases, including an elderly woman who currently is missing and whose estate was drained by her guardian; and another woman for whom no well-being reports had been filed for the last two years, who was sexually assaulted by the guardian’s husband, and who remained under the guardian’s control even after the guardian’s husband was imprisoned. The pilot also revealed that courts were oblivious to a tremendous number of persons who died while under guardianship, demonstrating the need for us to help courts monitor these cases effectively.

“Frankly, our pilot project results were so negative, and the testimony related to our interim charge was so disturbing, that every member of the Senate State Affairs Committee (seven Republicans, two Democrats) co-authored this bill, which the Senate passed 30-1, and the House of Representatives passed 129-13. It addressed a horrific statewide problem, and our intent was to resolve it. Equally important, the dire consequences of not resolving this situation caused the Appropriations Conference Committee to appropriate \$5 million to do so. This reflected the depth of knowledge and understanding of these conferees.

“All I can assume at this point is that the governor’s veto of \$5 million helped him reach his budget-cutting goal and that perhaps his policy experts with whom we work closely did not have an opportunity to explain the importance and impact of SB 667 or the extent of its support and history. We are optimistic, however, about working with him to address this issue more successfully in the future and would welcome the opportunity to discuss it with any members of his staff.”

Rep. John Smithee, the House sponsor, said: “SB 667 was the centerpiece legislation of several guardianship bills designed to address the grave situation impacting our most vulnerable Texans. The Office of Court Administration guardianship compliance pilot project, funded by the Legislature and supported by the governor in 2015, uncovered serious gaps in guardians complying with existing statutory requirements for managing the affairs of the persons under guardianship, impacting roughly \$5 billion and more than 50,000 Texans. Given that only 10 of Texas’ 254 counties have a statutory probate court, this legislation would have given the remaining 244 counties resources to address these serious lapses without the need to expand the court system. Unfortunately, county officials desperate for this assistance will not receive it. It is my hope that the governor’s office will be willing to work with the Legislature and the Supreme Court during the special session and the interim to formulate an alternative approach to provide this assistance in a manner that is palatable to the governor.”

NOTES: The HRO analysis of SB 667 appeared in Part Two of the May 16 *Daily Floor Report*.

Requiring the governor to appoint the commissioners of DSHS and DFPS SB 670 by Birdwell (Price)

DIGEST: SB 670 would have required the governor, with the advice and consent of the Senate, to appoint the commissioner of the Department of State Health Services and the commissioner of the Department of Family and Protective Services. The bill would have required the commissioners to be appointed without regard to race, color, disability, sex, religion, age, or national origin.

GOVERNOR'S REASON FOR VETO: “The commissioner of the Department of State Health Services is currently appointed by the executive commissioner of the Health and Human Services Commission, a gubernatorial appointee. This arrangement works well. Senate Bill 670 would have required direct gubernatorial appointment of the commissioner of DSHS. That is not needed.”

RESPONSE: **Sen. Brian Birdwell**, the bill’s author, could not be reached for comment on the veto.

Rep. Four Price, the House sponsor, had no comment on the veto.

NOTES: SB 670 was digested in Part Three of the May 23 *Daily Floor Report*.

Requiring a tree planting credit to offset tree mitigation fees

SB 744 by Kolkhorst (Phelan)

DIGEST: SB 744 would have required a municipality that imposed a tree mitigation fee for the removal of trees on a person's property necessary for development or construction to allow that person to apply for a tree planting credit to offset the fee. The bill would have placed certain requirements on the size and location of trees planted in lieu of paying the fee but otherwise would not have affected the municipality's ability to set requirements for its tree mitigation fee credit program.

GOVERNOR'S REASON FOR VETO: "Cities telling landowners what they can and cannot do with the trees in their own backyard is an assault on private property rights. Senate Bill 744 appears to be a compromise bill that imposes a very minor restriction on some municipal tree ordinances. But in doing so, it gives the imprimatur of state law to the municipal micromanagement of private property, which should be abolished altogether. This bill was well-intentioned, but by the end of the legislative process it actually ended up doing more to protect cities than it did to protect the rights of property owners. I applaud the bill authors for their efforts, but I believe we can do better for private property owners in the upcoming special session."

RESPONSE: Neither **Sen. Lois Kolkhorst**, the bill's author, nor **Rep. Dade Phelan**, the House sponsor, had a comment on the veto.

NOTES: The HRO analysis of SB 744 appeared in Part Three of the May 22 *Daily Floor Report*.

Continuing the women's health advisory committee until 2019

SB 790 by Miles (Howard)

DIGEST: SB 790 would have extended from September 1, 2017, to September 1, 2019, the statutory expiration date of the women's health advisory committee, which provided recommendations to the Health and Human Services Commission on the consolidation of state-administered women's health programs.

GOVERNOR'S REASON FOR VETO: "The Women's Health Advisory Committee was created last session 'to provide recommendations to [the Health and Human Services Commission] on the consolidation of women's health programs.' By law, the Committee is set to expire in September 2017. The Committee fulfilled its statutory charge after the women's health programs at HHSC were successfully consolidated under the Healthy Texas Women's Program, which launched in July of 2016. The Committee's purpose has been served, and it should be allowed to expire as was promised when it was created last session. In addition, the HHSC executive commissioner is already authorized by the Government Code to maintain advisory committees 'across all major areas of the health and human services system,' so there is no need to continue a particular legislative mandate for a committee that, by law, has achieved its legislative mandate.

"Senate Bill 790 does nothing more than extend the expiration date of a governmental committee that has already successfully completed its mission. Rather than prolong government committees beyond their expiration date, the State should focus on programs that address more clearly identifiable needs, like my call for action to address the maternal mortality rate during the special session."

RESPONSE: **Sen. Borris Miles**, the bill's author, said: "According to the World Health Organization statistics, Texas has the highest number of pregnancy-related deaths in a developed world. For black women, the numbers are even worse. I am dumbfounded that the governor would announce a special session and add maternal mortality to the list, then veto SB 790, which would extend the Women's Health Advisory Committee for another two years and benefit countless women across our state.

"This committee was created in 2015 to advise and provide recommendations to the Health and Human Services Commission (HHSC) regarding two new women's health programs. These programs are less than a year old, and the committee needed more time to advise HHSC and discuss ways to improve these new programs dedicated to improving women's health in Texas.

“This legislation would have cost state taxpayers absolutely nothing, but the benefits would have been limitless. This bill passed both chambers with bipartisan support because legislators knew this committee’s work was important for our state and for improving women’s health.

“Dismantling this committee is incredibly shortsighted, especially since the maternal mortality rates are skyrocketing across our state. Texas women deserve better.”

Rep. Donna Howard, the House sponsor, said: “The governor’s veto of SB 790 is both misguided and infuriating. The Women’s Health Advisory Committee (WHAC) was instituted to help ensure provider input during the consolidation of the state’s women’s health programs – the third major overhaul of women’s health programs since 2011 – and also provides a vital forum for public comment on the topic. Since the consolidated Healthy Texas Women (HTW) program just rolled out on July 1, 2016, it is too early to determine if it is meeting the needs of women and providers.

“SB 790 would have given the WHAC the opportunity to review incoming data through 2019 and suggest additional changes to the program where necessary. The committee’s work is especially urgent in light of the state’s new request for a federal 1115 demonstration waiver for the Healthy Texas Women program. Furthermore, a March 2017 report from the Texas Health and Human Services Commission showed that the number of Texas Women’s Health Program clients with a contraceptive claim or prescription dropped by over 40 percent from the 2011 fiscal year to the 2015 fiscal year; the WHAC’s guidance would be vital to ensuring that this precipitous drop in utilization does not continue under the new HTW program.

“It is especially galling to see this veto at a time when Texas is struggling with the highest rate of maternal mortality in the developed world. Between 2010 and 2014, 600 Texas women died of pregnancy-related causes, most within the period from 6 weeks to 52 weeks after delivery. Yet Gov. Abbott is eliminating a trusted, highly qualified group of providers that could help to address this tragic situation.

“My House companion to this bill, HB 279, was filed on November 14, and at no point during the past six months had the governor’s office expressed any concerns to me over the legislation. Nor, it appears, did he consult with any of the dozens of stakeholder groups that were intimately involved with the crafting of the bill. This unilateral, absentee style is disgraceful, and it is now jeopardizing the health and safety of women across the state.”

NOTES: The HRO analysis of SB 790 appeared in Part One of the May 19 *Daily Floor Report*.

Allowing monetary recovery for frivolous state regulatory actions

SB 813 by Hughes (Meyer)

DIGEST: SB 813 would have authorized a claimant to bring an action against a state agency that took a regulatory action against the claimant that was frivolous, unreasonable, or without foundation. The claimant could have filed the action only after the claimant had exhausted administrative remedies with respect to the regulatory action.

A person could have recovered reasonable attorney's fees and costs incurred in defending against a frivolous regulatory action during an administrative proceeding and judicial review of that proceeding if the person had prevailed in the judicial review and the state agency was unable to demonstrate that it had good cause for the regulatory action.

GOVERNOR'S REASON FOR VETO: "State agencies should be held accountable when they abuse their authority. There are many ways to accomplish that goal other than by enticing trial lawyers to sue the taxpayers for damages. Senate Bill 813 is well-intentioned, but it subjects the State to the possibility of extensive financial liability. Under the bill, taxpayer liability would be triggered any time a judge decides the State's action is 'unreasonable,' a vague and broad standard that varies with the eye of the beholder. This financial liability would be borne by the taxpayers, not by the bureaucrats who caused the problem. The bill was inspired by legitimate concerns about regulatory overreach, but exposing the State fisc to limitless jury verdicts is not the right solution."

RESPONSE: Neither **Sen. Bryan Hughes**, the bill's author, nor **Rep. Morgan Meyer**, the House sponsor, had a comment on the veto.

NOTES: The HRO analysis of SB 813 appeared in Part Two of the May 20 *Daily Floor Report*.

Providing mortgage loan borrowers with annual financial statements

SB 830 by Rodríguez (Walle)

DIGEST: SB 830 would have established certain notice requirements for mortgage servicers relating to certain home loans secured by a lien on the property. Specifically, a mortgage servicer would have been required to issue to the borrower an annual statement noting the amount of each payment received that was dedicated to principal and the amount that was dedicated to interest, as well as the outstanding principal balance.

If the statement was not received within the time frame laid out by SB 830, a borrower could have mailed a written request for the statement. If the request was not fulfilled within 25 days, the borrower would not have been liable for any fees, penalties, or late charges for the preceding calendar year, but would have remained responsible for any principal or interest due.

GOVERNOR'S REASON FOR VETO: "Senate Bill 830 imposes burdensome new regulatory and paperwork requirements on those who offer seller-financed mortgages. This sort of regulation could increase the price and reduce the availability of these mortgages."

RESPONSE: **Sen. José Rodríguez**, the bill's author, said: "This bill was a simple fix intended to prevent conflicts and lawsuits between lenders and borrowers and to cut down on mortgage fraud. Contrary to the governor's statement, SB 830 imposed no burden on lenders; banks and credit unions already provide this basic information to borrowers.

"What's more, the bill was thoroughly vetted and agreed to by seller-financed lenders and financial institutions, and, as a concession to these stakeholders, still kept much of burden on borrowers to proactively assert their right to information."

Rep. Armando Walle, the House sponsor, said: "SB 830 was meant to help both low-income Texan homeowners and small-volume seller-financiers. The annual mortgage statement would have been a simple receipt that homeowners could have used to keep up with their home finances and claim their federal mortgage interest tax deduction. Seller-financiers could have used it as a way to help collect outstanding debt. In short, this bill was meant to promote responsible homeownership. All stakeholders, including those representing small-volume seller-financiers, worked on this bill and produced language that was acceptable to everyone involved.

Gov. Abbott's stated rationale that small volume seller-financiers would have been harmed by the paperwork and costs is highly exaggerated. The annual mortgage statement was to include basic loan information like payments made during the

year, how those payments applied to principal and interest, applicable fees, and the borrower's outstanding balance. Since this bill would have effectively only applied to lenders with less than five of these loans, annual costs of the certified mail requirement would have totaled no more than \$25 to \$35 for a lender.

I was not only disappointed by the governor's veto of agreed-to legislation encouraging responsible home ownership, but also by how the governor's office did not express concern or interest in this Senate bill or my companion House bill at any point in the legislative process throughout the entire session."

NOTES:

The HRO analysis of SB 830 appeared in Part One of the May 22 *Daily Floor Report*.

Requiring a joint interim study on construction contracts

SB 1215 by Hughes (Shine)

DIGEST: SB 1215 would have created a joint interim legislative committee to study and report on issues relating to construction contracts. Issues for study could have included allocation of liability, relationships among parties, property liens, warranties, standards of care, civil actions, and indemnification and insurance issues. The report would have been due by December 1, 2018.

GOVERNOR'S REASON FOR VETO: "Senate Bill 1215 creates a joint interim committee of the Legislature to study construction contracts. The House and Senate can, and do, study topics in the interim without passage of a law. Legislation mandating legislative studies and legislative interim committees is unnecessary. The Legislature is free to study construction contracts with or without this bill."

RESPONSE: **Sen. Bryan Hughes**, the bill's author, had no comment on the veto.

Rep. Hugh Shine, the House sponsor, said: "SB 1215 would have required both chambers of the Legislature to conduct a joint study of a Texas Supreme Court ruling that allows contractors to be held liable for damages caused by design defects. Texas has a longstanding history of assigning liability to the party responsible for the damages, and the Texas Supreme Court's ruling is counter to that philosophy. Contractors are statutorily prohibited from creating or modifying construction plans and specifications and should not be held liable for damages resulting from defects in those plans or specifications."

NOTES: SB 1215 was digested in Part Two of the May 23 *Daily Floor Report*.

Modifying requirements for de novo hearings

SB 1444 by West (S. Davis)

DIGEST: SB 1444 would have required suits affecting the parent-child relationship to receive precedence over other pending matters to ensure a court reached a prompt decision. The bill would have added the associate judge to those who had to be notified by parties requesting a de novo hearing.

The bill would have prohibited a party from requesting a de novo hearing on a default judgment or an agreed order. The referring court, after giving notice to the parties, would have had to hold a de novo hearing on an associate judge's proposed final order or judgment following a trial on the merits for suits affecting the parent-child relationship, and no later than 45 days after the date the initial request was filed.

Unless the referring court rendered an order disposing of the de novo hearing request within 45 days, the request for a de novo hearing would have been considered denied by the referring court. If the referring court had not held a de novo hearing on an associate judge's proposed order or judgment within 30 days after the date the initial request for a de novo hearing was filed, a party could have filed a petition for a writ of mandamus to compel the referring court to hold a de novo hearing. The date the hearing request was denied would have been the controlling date for the purpose of an appeal to, or a request for other relief from, a court of appeals or the Texas Supreme Court.

GOVERNOR'S REASON FOR VETO: "Associate judges are employees of the court who do not exercise the judicial power of the State on their own. They act only pursuant to the delegated authority of an elected judge. Senate Bill 1444 makes certain judgments entered by associate judges unappealable to the elected judge overseeing the case. The bill would expand the power of unelected judges while contracting the legal options of parties who appear before them. Other aspects of Senate Bill 1444 had merit. The Legislature should reconsider them next session."

RESPONSE: **Sen. Royce West**, the bill's author, said: "I was surprised by this veto. The bill was amended in both chambers to address concerns raised during the legislative process, some of which were similar to those expressed by the governor."

Rep. Sarah Davis, the House sponsor, had no comment on the veto.

NOTES: SB 1444 was digested in Part Two of the May 21 *Daily Floor Report*.

Requiring a study of water needs and availability

SB 1525 by Perry (Larson)

DIGEST: SB 1525 would have required the Texas Water Development Board (TWDB) to conduct and submit to the Legislature a study of water needs and availability in Texas, as well as a comprehensive water resources map based on the results. The study, due December 1, 2018, would have had to consider:

- opportunities for and obstacles to developing new sources of water;
- potential locations of desalination facilities;
- costs associated with transporting desalinated marine seawater and brackish groundwater to end users;
- use of public-private partnerships for water development projects; and
- methods to ensure that all stakeholders are included in developing water-use plans.

The bill also would have required TWDB to conduct studies of aquifer storage and recovery (ASR) projects and submit, by December 15, 2018, a report to state leaders that included a statewide survey of the most favorable areas for ASR.

**GOVERNOR'S
REASON FOR
VETO:**

“The Texas Water Development Board can perform the study mandated by Senate Bill 1525 with or without this legislation.”

RESPONSE:

Sen. Charles Perry, the bill’s author, had no comment on the veto.

Rep. Lyle Larson, the House sponsor, said: “SB 1525 included language identical to HB 2005, which instructed the Texas Water Development Board to work with groundwater conservation districts, regional water planning groups, and potential sponsors of aquifer storage and recovery projects identified in the State Water Plan or by other interested persons to study the geologic formations along Texas river basins for the feasibility of aquifer storage and recovery projects. The State of Texas has fallen woefully behind other states in adapting to building evaporation-proof aquifer storage and recovery projects over surface water reservoir projects, in which 50 to 60 percent of water stored is lost to evaporation. We must aggressively explore the potential to store water underground, where the hydrogeology allows us to do so. The aquifer storage and recovery studies that SB 1525 directed would have provided communities with the data needed to determine if the geology in their area is conducive to underground water storage. While the Texas Water Development Board can conduct the study on its own, the agency does not have access to the resources needed to allow it to conduct the study on a meaningful scale.

“We will continue to work to enact water policy to secure Texas’ water future in preparation for the next drought for the betterment of all Texans”

NOTES:

SB 1525 was digested in Part Four of the May 23 *Daily Floor Report*.

Transferring and renaming developmental disability office

SB 1743 by Zaffirini (Hinojosa)

DIGEST: SB 1743 would have abolished the Office for the Prevention of Developmental Disabilities as an independent office, transferred it to the University of Texas at Austin (UT Austin) as a program, and renamed it as the Office for Healthy Children. The bill would have required all money, contracts, leases, rights, obligations, and property of the office and all funds appropriated to it by the Legislature to be transferred to UT Austin, and the office no longer would have been subject to consolidation with the Health and Human Services Commission.

GOVERNOR'S REASON FOR VETO: "The duties prescribed by Senate Bill 1743 can be performed by the Health and Human Services Commission using existing resources. Executive branch functions need not be assigned to universities."

RESPONSE: **Sen. Judith Zaffirini**, the bill's author, said: "The Texas Office for Prevention of Developmental Disabilities (TOPDD) has the important and unique mission of reducing the frequency of preventable intellectual and developmental disabilities. It is the only state entity that addresses this critical function. Specifically, it focuses on key issues including prenatal alcohol exposure and fetal alcohol spectrum disorders (the leading cause of preventable intellectual and developmental disabilities); injury prevention and general child safety; and co-occurring intellectual and developmental disabilities and mental health conditions.

"For some inexplicable reason, the Texas Health and Human Services Commission (HHSC) has never prioritized or fully addressed this important goal. Its officials, for example, did not join me in resisting TOPDD's elimination directed in the 2015 Sunset legislation. After a two-year effort to save it, I authored and passed compromise legislation – namely, SB 1743 – which would have transferred TOPDD to the Texas Center for Disability Studies at The University of Texas at Austin. This would have allowed TOPDD to continue its important focused work, instead of having its mission diluted and diminished when absorbed within the massive HHSC and forced to compete with many other critical priorities. Transferring TOPDD to an institution of higher education also would have allowed it to compete for more grants, especially at the federal level. Sans state funding for its efforts, this is critical for its success.

"Although Gov. Abbott's veto statement noted that 'executive branch functions need not be assigned to universities,' TOPDD has no executive branch functions. The office was overseen by an executive committee, though it was administratively attached to HHSC. The Sunset Advisory Commission's rationale for eliminating the office was that it was perceived as pseudo-governmental because it operated separate

from any other state agency. To address the Sunset commission's concerns, my bill not only would have eliminated the executive committee, but also would have separated the office completely from HHSC.

“Supporting TOPDD requires an understanding of the needs and interests of families who are impacted by intellectual and developmental disabilities. Providing programs and services for persons with intellectual, developmental, physical, and emotional disabilities is as important as preventing preventable intellectual and developmental disabilities through education, awareness, and research. Vetoing SB 1743 thwarts our goal, which dates back to 1989. I only wish I had been asked to defend the bill before it was vetoed.”

Rep. Gina Hinojosa, the House sponsor, said: “The governor’s veto of SB 1743 was disappointing. The bill would have allowed the universally recognized, important work of the Texas Office for the Prevention of Developmental Disabilities to continue. The office focuses on small, but key, issues that contribute to preventable disabilities, including fetal alcohol syndrome disorder, injury prevention and general child safety, and co-occurring intellectual and developmental disabilities and mental health conditions.

“As a concession to conservative austerity ideology, the legislation provided that no state funding would be spent for this purpose. It would have all been funded through grants.

“Throughout the legislative process, where the bill was vetted by stakeholders, debated in committee, and passed by both chambers, the governor’s office never communicated concern to me.

“This is the epitome of pro-life legislation, at no cost to the state, and I cannot comprehend why the governor would end the years of work that have gone into supporting healthy children.”

NOTES:

The HRO analysis of SB 1743 appeared in Part Two of the May 20 *Daily Floor Report*.

Requiring personal service of certain notices by a constable or sheriff

SB 1912 by Zaffirini (Hinojosa)

DIGEST: SB 1912 would have required that a constable or sheriff personally serve notice in a mental health proceeding and would have changed certain requirements for filing a copy, rather than the original, of a signed document in such a proceeding.

The bill also would have allowed courts to establish mental health public defender offices to provide legal assistance to proposed patients in commitment hearings. It would have required a court to appoint an attorney affiliated with a public defender's office, mental health or otherwise, or a private attorney in any proceeding to determine court-ordered mental health services.

GOVERNOR'S REASON FOR VETO: "Parts of Senate Bill 1912 are beneficial, but other parts go too far in expanding government. The law already mandates that courts appoint attorneys to represent defendants in cases where the government seeks court-ordered mental health services. Permanent new government offices dedicated to this function are unnecessary. Private attorneys are capable of handling these cases without the expense of a new county bureaucracy."

RESPONSE: **Sen. Judith Zaffirini**, the bill's author, said: "Mental health public defender offices are necessary because it is more cost efficient for county taxpayers to employ staff attorneys than to pay hourly rates to private attorneys for these cases. What's more, having county attorneys dedicated to mental health commitments enhances specialization and quality representation for vulnerable defendants. This is why some counties in the state, including Travis and Fort Bend, already have established mental health public defender offices. This permissive bill simply would have given counties specific authority to do so."

Rep. Gina Hinojosa, the House sponsor, said: "SB 1912 would have cleared up three sections of current law relating to mental health courts. First, it would end the antiquated requirement for the original hard-copy court documents to be filed and only require electronic filing. Secondly, it would have clarified in the Health and Safety Code that sheriffs and constables are permitted to provide notice for mental health court proceedings. Finally, it would have clarified that counties have the statutory authority to create mental public defenders offices.

"I believe these three changes would have increased procedural efficiency and strengthened services for mental health court recipients in Texas. Neither the governor nor his staff communicated to me about concerns with SB 1912 and I am very disappointed with the governor's decision to veto SB 1912."

NOTES: SB 1912 was digested in Part Three of the May 22 *Daily Floor Report*.

Changing the allocation of housing tax credits to certain developments

SB 1992 by Watson (Isaac)

DIGEST: SB 1992 would have allowed the board of the Texas Department of Housing and Community Affairs to award affordable housing credits to developments that were within two miles of each other in a single community in the same calendar year if the developments served different types of households. The bill also would have increased from 1 million to 1.5 million the population threshold for counties to which location restrictions applied.

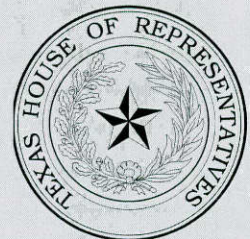
GOVERNOR'S REASON FOR VETO: "Existing law governing the density of subsidized housing in large cities should remain in place, and Travis County should be subject to the same rules as Bexar, Dallas, Harris, and Tarrant counties."

RESPONSE: **Sen. Kirk Watson**, the bill's author, said: "It is hard enough to find land in the city near good schools, health care, or other services at a price that could allow for affordable housing to be built. But when such land is available, we should not prohibit development on that land simply because other similar development is occurring within 2 miles. This bill would have removed that needless barrier and allowed affordable housing to be built where the market allowed."

Rep. Jason Isaac, the House sponsor, said: "The two-mile, same-year rule in current statute too often forces taxpayer-subsidized government housing into suburban areas. While the original intent of this rule was to avoid over-concentration, updated regulations have since been established to avoid this problem. Removing Travis County from the two-mile, same-year rule would have allowed communities on the outskirts of Austin, like the district I serve, more freedom and would have ensured these 'affordable' housing opportunities can be placed where they may be needed most."

NOTES: SB 1992 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

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