

January 2001



SENATE  
RESEARCH  
CENTER

The  
**76<sup>th</sup>**  
Texas Legislature



**Interim  
Digest**



Produced for the  
**77<sup>th</sup>**  
Texas Legislature



Sam Houston Bldg.  
Suite 575  
P.O. Box 12068  
Austin, Texas 78711  
512 • 463 • 0087  
Fax: 512 • 463 • 1271  
TDD 800 • 735 • 2989

*A Compilation of Legislative Interim Committee Action*

*Prepared by Senate Research Center*

---

---

***January 2001***

***The 76<sup>th</sup> Texas  
Legislature***

***Interim Digest***

***Produced for  
The 77<sup>th</sup> Texas  
Legislature***

---

---



## **SENATE RESEARCH CENTER**

**Julie Valentine, Director**

**Rita Aguilar, *Criminal Justice and Transportation Issues***

**Dunya Bean, *Research Associate***

**Candy Black, *Library Administrator***

**Stephen Boske, *Intern***

**Emily Brownlow, *Revenue and Budget Issues***

**Tammy Edgerly, *Ethics, Juvenile Justice, and Family Issues***

**Mahan Farmaian, *Environmental and Local Government Issues***

**Sylvia Griego, *Administrative Specialist***

**Betsy Heard, *Education Issues***

**Douglas Mac Lean, *Editor***

**Hector Meza, *Publications Coordinator/Graphic Designer***

**Yvette Moore, *Administrative Specialist***

**J. Joseph Stewart, *Regulatory Issues***

**David Thomason, *Health and Human Services Issues***

**Elizabeth Tschudi, *Bill Analysis Coordinator***

**Sharon Weintraub, *General Counsel***

***Bill Analysts:***

Brett Carr

Cary Choate

Jennie Costilow

Jeremiah Jarrell

Wade Newton

Taylor Russell

Meagan Vogel

Sarah Woodrick

***The Texas Senate does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services.***

---

---

---

---

# Foreword

The Senate Research Center publishes the Interim Digest, which is a compilation of interim committee action. In general, committees were given interim charges and have reported their recommendations to the 77<sup>th</sup> Legislature. The Interim Digest summarizes these recommendations.

The Interim Digest is a collective effort of the staff of the Senate Research Center, with valuable assistance from other offices and staff. Appreciation goes to Senate and House staff members for providing their interim reports, particularly House Committee Services. A special note of thanks to Senate and House Publications and Printing for assistance in producing this document, and Betty King and Patsy Spaw for their continuing guidance.

---

---

**The following interim committee reports were not released at the time this document was printed:**

**House Interim Committees:**

Appropriations

Insurance

Licensing and Administrative Procedure

Ways and Means

---

---

## TABLE OF CONTENTS

Foreword	i
Table of Contents	iii

### Senate Interim Committee Reports

Administration	1
Border Affairs:	
Health	3
Transportation	9
Criminal Justice:	
Charge One	16
Charge Two	17
Charge Three	19
Charge Four	20
Charge Five	23
Charge Seven	26
Charge Eight	27
Charge Nine	29
Charge Ten	31
Charge Eleven	32
Economic Development:	
Financial Modernization	35
Implementation of S.B. 560	37
Subcommittee on Consumer Credit Laws	38
Subcommittee on Private Sector Business Financing	40
Subcommittee on State 9-1-1 Emergency Communications	41
Education	42
Finance:	
Subcommittee on ERS and TRS Benefit Issues	50
Subcommittee on Graduate Medical Education	54
Subcommittee on Major State Investments	56
Subcommittee on Tobacco Settlement Proceeds	59
Implementation of S.B. 1547	61

---



---

Health Services _____	63
Human Services _____	70
Intergovernmental Relations _____	78
Jurisprudence _____	83
Natural Resources:	
The Challenge of Meeting Federal Air Quality Standards _____	85
The Economic Impact of Port Regionalization and Expansion _____	88
Future of the Oil and Natural Gas Production Industry _____	90
Implementation of S.B. 7 and S.B. 766 _____	92
Missions and Roles of River Authorities _____	93
Opportunities and Challenges Facing the Texas Coastal Region _____	95
Storage and Disposal Options for Low-level Radioactive Waste _____	97
Texas Groundwater Resources _____	99
State Affairs:	
Charge One _____	103
Charge Two _____	106
Charge Three _____	108
Charge Five _____	110
Charge Six _____	111
Charge Seven _____	112
Charge Nine _____	113
Charge Ten _____	114
Veteran Affairs and Military Installations _____	117

## **House Interim Committee Reports**

Agriculture and Livestock _____	121
Business and Industry _____	124
Civil Practices _____	128
Constitutional Revision (Select Committee) _____	131
Corrections _____	135
County Affairs _____	137
Criminal Jurisprudence _____	142
Economic Development _____	146
Elections _____	151
Energy Resources _____	154

---



---

Environmental Regulation _____	155
Financial Institutions _____	160
General Investigating _____	165
Higher Education _____	173
Judicial Affairs _____	176
Human Services _____	180
Juvenile Justice and Family Issues _____	186
Judicial Interpretations of Law (Select Committee) _____	188
Land and Resource Management _____	192
Natural Resources _____	196
Pensions and Investments _____	200
Public Education _____	204
Public Health _____	211
Public Safety _____	215
Rural Development (Select Committee) _____	218
State Affairs _____	219
State, Federal, and International Relations _____	223
State Recreational Resources _____	225
Teacher Health Insurance (Select Committee) _____	228
Transportation _____	232
Urban Affairs _____	235
Windham School District (Select Committee) _____	240

## **Special Committee Reports**

Advisory Council on the Digital Economy _____	243
Electric Utility Restructuring Legislative Oversight Committee _____	246
Joint Agriculture Policy Committee _____	247
Long-term Care Legislative Oversight Committee _____	250
Senate Committee on Redistricting and House Committee on Redistricting _____	251
Special Commission on 21 <sup>st</sup> Century Colleges and Universities _____	252



---

---

---

---

***Senate  
Committee  
Reports***

---

---

---

---

---

---

**SENATE COMMITTEE ON ADMINISTRATION**

**Charge**

**Study the prevalence of tick-borne illnesses in Texas with a focus on issues relating to prevention and treatment. The study should consider the effectiveness of state education efforts to raise awareness within the medical community and among the general public about the threat of tick-borne illnesses. The study should also examine possible options to improve the type and amount of information available to health care practitioners and the general public in identifying symptoms of tick-borne illnesses and seeking or administering appropriate care.**

**Background**

Tick-borne illnesses have become a growing concern and source of controversy for the medical community and the general population of Texas. These diseases, which are acquired from the bite of a tick, include: Lyme disease, Rocky Mountain spotted fever, babesiosis, ehrlichiosis, and relapsing fever, among others. These maladies can be extremely debilitating, and have been known to be fatal. The amount of useful information regarding the effective diagnosis and treatment of some tick-borne illnesses has been insufficient to foster a consensus within the scientific and medical communities, which prevents these communities from developing and disseminating specific information. Little has been accomplished within the state with regard to prevention measures or educating the public about the existence and potential harm of these diseases, as research efforts are slowed by the lack of fundamental knowledge of the illnesses and funding efforts are hampered by budget limitations.

**Recommendations**

- Raise the awareness of the general public and the medical community about tick-borne illnesses in Texas through the promotion of education and prevention measures.

Expand and continue existing efforts and explore additional methods of information distribution.

Include accurate tick-borne illness information in the curriculum of public medical and nursing schools, residency programs, and continuing medical education courses.

Direct the Texas Board of Medical Examiners to develop review guidelines for doctors who provide medical care related to tick-borne illnesses.

- Develop a comprehensive diagnostic laboratory for tick-borne illnesses, as early and accurate diagnosis is the key to effective treatment, and no reliable laboratory tests for the diagnosis for the illnesses, particularly Lyme disease, have been developed.

Require that the appropriate agencies administer any components necessary for creating the laboratory, such as research groups and ecological studies.

**INTERIM DIGEST**  
**SENATE COMMITTEE ON ADMINISTRATION**

The University of North Texas Health Science Center should oversee the diagnostic test development and have the responsibility of maintaining the laboratory, which should include the collaborative efforts of several state agencies and private organizations when appropriate.

**SENATE COMMITTEE ON BORDER AFFAIRS:  
HEALTH**

**Charge**

**Assess the health conditions in the Border region, including childhood diseases and chronic health problems endemic to the Border such as diabetes and tuberculosis. Included in this assessment shall be an evaluation of the utilization of immunization and prevention programs and of collaborative efforts on common health issues between Texas and the Mexican Border States. The committee shall develop health care strategies to improve Border health conditions and recommendations for their implementation.**

**Recommendations**

- Explore avenues to develop binational health insurance measures.
- Consider a Continuing Resolution to the United States Congress requesting the development of an agreement or treaty that specifically addresses health issues of mutual concern between the U.S. and Mexico, including the elimination of legal barriers. A framework analogous to the North American Free Trade Agreement (NAFTA) environmental side agreements, the Border Environmental Cooperation Commission (BECC), and the North American Development (NAD) Bank, should be utilized.
- Request that the U.S. Department of Health and Human Services create a U.S.-Mexico Border Health Task Force.
- Explore mechanisms to enhance binational coordination via the U.S. Agency for International Development, non-governmental organizations, and private sector opportunities.
- Increase the capacity to respond to emerging binational public health initiatives by developing binational public health coordinators, establishing a network of Border regional epidemiologists, and establishing/expanding Border laboratory capabilities in order to address the health issues associated with anticipated economic and population growth as national trade agreements are fully implemented.
- Continue to work with federal officials to ensure Mexico's full participation in the U.S.-Mexico Border Health Commission.
  
- Expand the surveillance and control of communicable diseases in the Border region by state and local health departments, with primary consideration for infectious diseases.
- Establish binational HIV/AIDS/STD programs.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Increase outreach funding for cancer screening and early intervention for the Border region.
- Fund health educators for diabetic nutrition programs. Nutrition programs must be culturally sensitive.
- Increase health promotion and disease prevention programs in order to educate and screen for preventable chronic diseases, such as diabetes.
- Examine medical coverage across the state as it relates to diabetic testing supplies.
- Fully implement the Coordinated Approach to Child Health (CATCH) program in all Texas schools. This includes teacher training and providing children with nutritional meals and daily physical education as part of the school curriculum.
- Implement a program to monitor the height and weight of school children in order to determine rates of obesity. This data would be used to improve community policies such as the utilization of physical education and nutritional value of school lunch programs.
- Allow the sharing of resources binationally in order to diminish the barriers encountered when working with Mexico.
- Ease the coordination, communication, and transfer of information and resources between the United States and Mexico.
- Require the Texas Department of Health (TDH) to direct funds to address tuberculosis and other diseases endemic to the Border on the rate of disease incidence.
- Require TDH to develop a plan to increase the immunization rate statewide to 100 percent. This could include using military personnel and *promotoras* to give vaccinations and plan and/or participate in local health fairs. *Promotoras* are resource workers who live in the community they serve.
- Examine the occurrence of private insurance companies shifting the cost of immunizations to the state for children who should be covered under their plans.
- Develop a waiver for dentally underserved areas to allow dental hygienists more freedom to provide education, prevention, and basic dental cleaning. This would include provisions for consultations and remote supervision of certified dental auxiliaries in the Texas Dental Practice Act.
- Develop programs to move from disease documentation to disease prevention, disease management, and health promotion. Successful programs could be replicated across the Border and could also be applied to nursing homes.
- Increase the utilization of TeleHealth technology in combination with regular school-based health screening of children in grades K-12.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Examine provisions for reimbursement of TeleDentistry services and also telecommunications support of for-profit local health care providers by Telecommunication Infrastructure Fund Board grants.
- Create a standardized vector control program to ensure that insecticide sprayers are properly trained, know what type of insect they are spraying for, and how to administer insecticide properly.
- Commission an epidemiological study to determine where cases of mosquito-borne illness are originating and what the patterns of illnesses are. Entomologists must be available on the Border in order to identify which mosquitoes are causing which illnesses.
- Enact binational sanitation measures, including proper disposal of and mass recycling of discarded tires.
- Support the International Consortium for the Environment.
- Provide state support to offset the rising training costs for Border public water systems, especially for those that are:
  - in economically distressed areas as defined by the Texas Water Development Board;
  - in a remote or isolated area, which precludes them from participating in existing training programs;
  - new Border systems;
  - existing systems that are replacing old equipment or broadening processing facilities; and
  - identified by the Texas Natural Resources Conservation Commission (TNRCC) as deficient, causing a potential health risk.
- Increase water, wastewater, and environmental industry services, training, and education along the Border.
- Create a registry, similar to the neural-tube defect registry, to track animal anomalies.
- Commission further study to identify and verify links between air quality (including the significance of diesel exhaust), and health status of the population, including the growing number of adults and children with respiratory ailments.
- Commission a study of the link between water contamination and disease on the Rio Grande.
- Increase funding for environmental monitoring as NAFTA-related economic activity continues to increase.



## **INTERIM DIGEST**

### **SENATE COMMITTEE ON BORDER AFFAIRS**

- Place highly trained epidemiologists along the Border in El Paso, Laredo, and the Lower Rio Grande Valley.
- Certify solid waste programs by the BECC using loans from the NAD Bank.
- Direct TNRCC personnel to take certain actions to improve water quality in the Rio Grande.
- Increase funding for prenatal care.
- Increase state funding for Title V programs. Title V funds are a combination of state and federal dollars and are the only source of funding for prenatal care for undocumented women.
- Support the continued promotion of preventative education and folic acid supplementation.
- Increase the empowerment and funding of the Promotora Program.
- Increase support for community/university partnerships.
- Increase accessibility to various health services along the Border region.
- Work with the Texas Commission on Alcohol and Drug Abuse to ensure that alcohol and drug abuse services are available within a reasonable distance for Border residents.
- Support and strengthen the Texas Department of Mental Health and Mental Retardation's Colonias Outreach Initiative.
- Review the methodology by which the state sets Children's Health Insurance Program (CHIP) and Medicaid reimbursement rates. Direct the Health and Human Services Commission (HHSC) to address the rate-setting methodology and increase rates, in particular as it relates to Medicaid reimbursement along the Border. This should include developing a tiered system that will provide for equitable rates to regions in need.
- Consider the recommendations of the Border Rate Workgroup upon their finalization in January 2001.
- Direct TDH to develop indigent care programs specifically designed for the Border. Examine the healthcare funding currently provided by the state and correlate distribution of dollars to rates of uninsured and indigent care.
- Increase awareness of and participation in federal and state health care programs available to the Border region. This should include attracting more federal dollars for uncompensated care and protecting disproportionate share funding, especially for hospitals that serve large numbers of undocumented immigrants.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON BORDER AFFAIRS**

- Further develop bilingual education strategies regarding the availability of and explanation of health and social service programs in the Border region.
- Coordinate Immigration and Naturalization Service, Border Patrol, and HHSC efforts in order to eliminate fear, clear up misconceptions, and correct misinformation regarding access to health care. Create a system to monitor progress.
- Bolster preventative and primary care services in the Border and other under-served regions of the state.
- Review medical liability insurance rates for providers in the Border region.
- Examine the allocation of tobacco funds for health services to ensure efficacy.
- Fund the continued development of health service districts.
- Streamline the state Medicaid application and support legislative efforts to increase efficient delivery of services.
- Examine the use of the Critical Care Transfer Coordinating Board for Trauma pilot project called Trauma MEDCOM, designed for certain counties to coordinate the acceptance of patients needing a certain level of care, as a viable system in improving the coordination and utilization of limited trauma resources along the Border.
- Establish a Veteran's Administration hospital in the Lower Rio Grande Valley, Middle Rio Grande, and the El Paso region.
- Provide continued support at the state level for federal relief from the federal Balanced Budget Act, which cut \$100 billion out of national health care and hospital reimbursements.
- Enhance scholarship programs, student financial aid, and student loan forgiveness programs to attract more medical professionals to the Border.
- Increase funding for the Coastal Bend Health Education Center to encourage residents of South Texas to pursue careers as medical professionals.
- Support and increase funding for the South Texas Center for Rural Public Health.
- Support the Border Health Institute.
- Support the Regional Academic Health Center.
- Continue support for Texas Center for Infectious Disease initiatives.
- Examine Section 54.060, Texas Education Code, as it relates to including the satellites of the University of Texas-Houston Health Science Center School of Public Health, located in Brownsville and El Paso, as eligible to waive, under

**INTERIM DIGEST**  
**SENATE COMMITTEE ON BORDER AFFAIRS**

certain circumstances, non-resident tuition rates for Mexican residents. The Texas Education Code has been interpreted to read that foreign students may pay resident tuition at a state university that is located on a county adjacent to the country in which they reside.

**SENATE COMMITTEE ON BORDER AFFAIRS:  
TRANSPORTATION**

**Charge**

**Assess the long-term intermodal transportation needs of the Texas-Mexico Border region to facilitate regional economic development, international trade and safety, and evaluate the planning and capacity resources of the three transportation Border districts to expedite the flow of NAFTA-related commercial vehicle traffic.**

**Charge**

**Monitor the implementation of S.B. 913 regarding the establishment and maintenance of one-stop Border inspection stations.**

**Recommendations**

***Border Transportation as a Critical Part of Trade***

Based on the critical importance of trade with Texas' number one trading partner, Mexico, and the impact that ports-of-entry and the Border transportation districts have on the Texas economy, the following recommendations are made.

- Require the Texas Department of Transportation (TxDOT), the Department of Public Safety, and other state agencies involved in the cross-Border movement of goods and people to officially promote and develop partnerships and cooperation between transportation and law enforcement agencies on both sides of the Border.
- Require TxDOT to carry out certain NAFTA-related projects set out in the report.
- Waive the local match requirements for projects in the 1,254-mile Border region.
- Ask the Texas congressional delegation to support the passage of AIR-21, (Aviation Investment and Reform Act for the 21st Century).
- Increase funding for grade separations along truck routes, support increased interagency coordination at ports-of-entry, and provide incentives for alternative fuel vehicles to address congestion-related air pollution.
- Require TxDOT to increase funding and expedite construction projects along the Border.
  
- Support local enforcement programs related to truck traffic safety that would be supported by a combination of local, state, and federal funds. The programs would include hiring and training additional law enforcement staff.
- Develop, improve, and construct NAFTA roadways that provide access to international ports along the Texas-Mexico Border.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Recognize the importance of Texas' number one trade partner and the volume of trade activity with Mexico by institutionalizing and officially supporting the grouping and funding of the three districts into a new category.
- Require TxDOT to pursue with the new leadership of the country of Mexico and bordering Mexican states formal monthly cross-Border planning sessions.
- Fund pilot "one-stop" inspection facilities in El Paso, Brownsville, and Laredo, as outlined in S.B. 913, 76th Legislature.
- Direct TxDOT to:
  - establish dedicated commuter lanes (DCLs) at Border crossings to facilitate cross-Border employment; and
  - significantly increase its efforts to deploy intelligent technology systems to expedite truck traffic at Border crossings.
- Pass a statewide Grant Anticipation Revenue Vehicle bonds (GARVEE) proposal that prioritizes projects related to the Border.

#### *Planning and Capacity Issues*

- Request that the state and the U.S. and Mexican federal governments consult with binational states and local officials regarding the location, design, construction, operation, and integrated access elements of ports-of-entry systems prior to their construction.
- Request that the U.S. and Mexican federal governments continue the Border technology exchange program and increase its funding to improve its operation and training of technical personnel for truck inspections.
- Reorganize existing administrative and personnel state resources and target the three Border districts.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Require TxDOT to encourage the development of alternative modes of transportation, such as the single occupant vehicle (SOV) for reducing traffic congestion.
- Increase the level of state funding to Border aviation by supporting primary commercial service airports.
- Consider using tax revenues collected from the purchase of aircraft-and aviation-related products and from franchise taxes paid by the aviation industry in Texas to increase state funding for aviation programs.
- Amend the Texas Petroleum Storage Tank Remediation Fund's enabling statute to allow jet fuel contamination to be an eligible remediate expense as requested by Laredo.
- Work to reinstitute the Urban Streets program and increase Hazard Elimination programs funding to address increased traffic volumes on local roadways that have resulted in congestion and unsafe conditions.
- Increase funding for:
  - grade separations, signalization, and whistle noise abatement to address increased rail volumes that are currently causing intermodal conflicts, at-grade collisions, congestion, shipment delays, and noise pollution; and
  - maintenance of existing Border roads and enforcement of fines to address deteriorating infrastructure due to commercial NAFTA-related traffic.
- Support enhancement applications to provide environmental and cultural transportation-related enhancements to "change the face" of the Border. Institute a state scenic byway corridor along the Rio Grande that mitigates environmental concerns by conserving open space and historic figures, and providing public interpretation of Border culture. This development will in turn support the emerging tourism industry.
- Develop a dedicated state funding source for public transportation that will provide a guaranteed annual amount of money to the public transit systems in Texas.
- Allow some of the state and/or other taxes or permit fees paid by the trucking industry to be used to subsidize local governments for repairing roads.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Allow municipalities to require a fee or permit for movement of:
  - oversize/overweight loads along state maintained roads within a municipality; and
  - manufactured homes within the municipality regardless of routes.
- Allow the issuance of a permit by the state or city for overweight loads if the load can be reasonably dismantled.
- Require TxDOT to construct new roadways for transportation of hazardous materials.
- Require TxDOT to require that Metropolitan Planning Organization (MPO) planning and funding be extended for projects in cities with international bridges and include rural areas in such efforts.
- Collaborate with Mexican officials and members of the Mexican business sector to implement a check and clearance system south of the Texas-Mexico Border.
- Increase maintenance and expansion of farm-to-market roads and off-system streets along the Border that link NAFTA traffic with NAFTA corridors.
- Streamline the right-of-way acquisition by TxDOT on state-funded projects.
- Streamline the environmental process in the preliminary design phase of TxDOT projects.
- Accelerate the TxDOT consultant selection process.
- Automatically waive local match requirements for projects in the 54 economically disadvantaged counties identified by TxDOT.
- Create a new Border district discretionary fund to directly outsource transportation projects that positively impact the cross-Border movement of commerce, traffic, and people.
- Require TxDOT to include local communities in its decision-making process for the creation of state inspection stations.
- Require TxDOT to allocate “investment funds” to increase Border capacity commensurate with population and need and ensure that funding formulas address regional needs and disparities in local tax bases.
- Increase transportation funding through GARVEE bonds and other measures, and allocate funding based on need to major trade corridors, the trunk system, and Border infrastructure.

## INTERIM DIGEST

### SENATE COMMITTEE ON BORDER AFFAIRS

- Allow marine port membership in MPO boards and include a representative from the ports in the MPO region as a voting member.
- Require TxDOT to diversify its modes of transportation and increase its use of rail
- Provide a two-year appropriation of \$1 billion to existing TxDOT funding earmarked for infrastructure needs in the three Border transportation districts (Pharr, Laredo, and El Paso).
- Ask the Texas congressional delegation to:
  - lend its support to open more Customs Bureau inspection lanes at Texas Border crossings and keep them open 24 hours a day; and
  - enable MPOs along the Border to work closely with their counterparts in Mexico. Mexican representation on MPOs' technical advisory committees would enhance the planning process.
- Fund Border transportation and air-quality capacity modeling at state universities on the Border.
- Require TxDOT to:
  - include information on contracts for road construction projects that have been let, listed by project, and are on the Internet;
  - provide periodic progress reports on the Task Force Initiative projects that show their current status;
  - provide periodic reporting on expenditures and lettings in a format understandable by the general public, to be approved by the Legislative Budget Board and the governor's office;
  - formally recognize the importance of trade with Mexico and the value of the trade activity along the three Border districts and formally make the Border Advisory committee a long-standing committee within TxDOT;
  - allow the NAFTA discretionary fund to be used for planning, design, and environmental assessments in the three Border districts and significantly increase the discretionary fund; and
  - significantly increase the staffing levels and accompanied resources of the three Border transportation districts.
- Develop and implement the National Corridor and Border Program modeled after the federal program that provides funding for key NAFTA-related projects.
- Require TxDOT to significantly increase its use of the design-build process, especially along key NAFTA transportation corridors.
- Require TxDOT to take a more active role in the application and use of federal programs, such as Transportation and Infrastructure Finance and Innovation Act.



## **INTERIM DIGEST**

### **SENATE COMMITTEE ON BORDER AFFAIRS**

- Ask the Texas U. S. congressional delegation to re-institute Texas' designation as a State Infrastructure Bank entity.
- Establish a port investment program and council modeled after the Florida example outlined in this report and require that TxDOT include marine ports in the state's transportation plan and fund port infrastructure improvements, developments, and renovation.
- Invest in the railroad infrastructure along the Border region to increase alternative routes for truck transportation.
- Invest in Texas airports to allow communities along the Border to become more competitive in the global market.
- Require TxDOT to increase the use and conditioning of alternative routes, such as farm-to-market roads, to help alleviate Border choke points.

#### ***Representation by Border Districts on the Transportation Commission***

To ensure greater regional representation by the Border regions and recognize the need to adopt policies that foster economic development and international trade by allocation of state resources, the committee makes the following recommendations.

- Require TxDOT to develop agency policies and rules that promote, respect, and abide involvement of local cities and counties in the decision-making process of one-stop facilities and of state inspection facilities.
- Prohibit TxDOT and the Transportation Commission from circumventing the state mandates enacted by the legislature through agency policy/rule procedures.
- Require that the commissioners do not come from, live, or represent regions of the state that are within a 300-mile radius of each other, in order to guarantee state regional diversity and to prevent one region of the state from having unfair representation on the commission.
- Require that one Transportation Commissioner come from one of the three Border transportation districts.
- Request from the leadership in the governor's office that the next Transportation Commissioner be a native and residing resident of one of the three Border transportation districts.
- Evaluate and implement the findings of the comptroller's performance review, especially those regarding geographic distribution and management of funds.

# INTERIM DIGEST

## SENATE COMMITTEE ON CRIMINAL JUSTICE

### SENATE COMMITTEE ON CRIMINAL JUSTICE: CHARGE ONE

#### Charge

**Determine if “cold crime” investigations, especially of violent crimes, conducted by specially trained personnel should be augmented with additional resources and personnel within the Department of Public Safety (DPS).**

#### Background

Murder rates in Texas have dropped from 2,651 in 1991 to 1,343 in 1998 and are still declining. During the past decade, Texas law enforcement agencies have reported a total of 23,000 murders. These agencies have cleared seventy-one percent of those murders, while twenty-nine percent remain unsolved. Cold crimes represent the number of homicides that remain unsolved, or cold. With no statute of limitations on the offense of murder, the state has the moral and statutory obligation to pursue these cases. Law enforcement agencies are now able to increase their efforts in reopening cold cases and utilize new law enforcement technology to improve the possibility for cold crimes to be solved. The Department of Public Safety (DPS) established the DPS Crime Laboratory Service in 1937, and currently maintains thirteen crime labs throughout the state. DPS also has eight forensic DNA laboratories (DNA Crime Lab), all of which currently have a backlog of cases.

#### Recommendations

In light of increased focus on the use of DNA technology, the committee recommends:

- Implement the Unsolved Crimes Investigation Team (UCIT) Proposal to allow the Texas Rangers to assist counties that do not have access to extensive law enforcement resources with a process for investigating unsolved murders, or what appears to be serial or linked criminal transactions.
- Expand the DNA Crime Lab to aid law enforcement investigation of homicides across the state.
- Assign personnel within the DNA Crime Lab to focus on providing additional resources to areas of the state that need assistance in reviewing cold cases.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE TWO**

**Charge**

**Review information-sharing between law enforcement agencies, mental health professionals, and mental health agencies about individuals, both adults and juveniles, who are identified or considered a risk to the public's safety and whether additional cooperative efforts are needed. The committee also shall recommend how best to conduct a comprehensive review of the relationship between mental health and the criminal justice system to assure that the criminal justice system does not become the alternative placement for such individuals.**

**Background**

The population of mentally ill offenders in the criminal justice system has increased in recent years to between an estimated eight to sixteen percent. Mentally ill offenders typically commit misdemeanor offenses, such as disturbing the peace, vagrancy, and trespassing. Contrary to popular belief, most people with mental disorders do not pose a serious threat to public safety, and may be better served outside the criminal justice system. With the current shortage of jail beds available to house violent inmates, diversion of the mentally ill becomes a priority. Better coordination between law enforcement, mental health professionals and the community is needed to assist with the identifying and diverting mentally ill offenders involved in the criminal justice system.

**Recommendations**

- Establish a uniform, statewide reporting system to determine the number of jail inmates screened and assessed as mentally ill, mentally retarded, and/or suicidal.

The reporting system should include the mentally ill, mentally retarded, and/or suicidal screening counts in reports already approved for the Texas Commission on Jail Standards.

- Develop, with the assistance from the Texas Council on Offenders with Mental Impairments (TCOMI), a computerized mental health record system to track the number of mentally ill offenders referred by local or state criminal justice agencies to the mental health system.

Require that mentally ill offender data be reported to TCOMI.

Require TCOMI to submit a status report to the legislature on these implementation activities.

- Consider expanding continuity of care and community-based programs.

Current Texas Department of Criminal Justice (TDCJ) appropriations request includes an exceptional item for an additional million dollars to expand TCOMI programs.

**INTERIM DIGEST**  
**SENATE COMMITTEE ON CRIMINAL JUSTICE**

Current Texas Department of Mental Health and Mental Retardation (TDMHMR) appropriations request includes an \$83.8 million exceptional item to target difficult to treat mentally ill populations at risk of becoming criminal offenders.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE THREE**

**Charge**

**Review current statutes pertaining to the expunction of criminal records to determine if criminal records should be maintained with separate access by persons or entities that are not considered law enforcement from those persons or entities that are considered law enforcement. The committee shall also ensure that personal privacy rights are adequately protected with respect to information maintained by the Department of Public Safety (DPS), other state agencies that maintain criminal records for public access, and local law enforcement. The committee shall also consider other issues and procedures related to expunction.**

**Background**

Expungement, or expunction, is the process by which the record of an arrest is destroyed or sealed. By court order, this criminal history record is completely deleted, and the individual can represent in sworn statements that he/she has never committed the act subject to the expunction. Forty-nine states, including Texas, provide for some type of process that purges individual criminal records. Chapter 55 of the Texas Code of Criminal Procedure governs expunction, and the general rule is that any arrest that does not result in a prosecution (that is, no indictment or criminal information is ever filed) is expungable.

**Recommendations**

To further enhance the current system of expunction, the committee recommends several suggestions from the Department of Public Safety.

- Require the petitioner to serve a copy of the petition for expunction on all entities named in the petition as having records subject to expunction.
- Require that a certified copy of any court paperwork arising from the arrest be attached to the petition.
- Require that a minimum period of notice of a hearing be given to entities named in the petition.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE FOUR**

**Charge**

**Review the need for legal procedures and programs for children under the age of 10 who commit violent crimes so that they may receive necessary treatment and sanctions as part of the juvenile justice system (except for placement in the Texas Youth Commission) or a newly-created separate system. The committee shall consider whether a system, similar to the adult certification process for certain juvenile offenders, should be established that would certify a person under 10 years of age into the juvenile justice system.**

**Background**

Although the instances are rare, there have been violent, even deadly, acts committed by children who are younger than 10 years of age. What to do with these very young children has been a topic of study during the interim. Texas' current legal and human service systems are not organized to effectively deal with children under 10 who commit violent crimes. They are too young to be brought into juvenile court, and if they have not been subject to abuse or neglect or do not manifest mental or emotional illness, they do not come under the purview of child protective services or mental health services.

Currently, law enforcement is usually initially involved in the violent incident. However, since children this young are not subject to the jurisdiction of the juvenile justice system, an officer is not required to follow normal reporting procedures. However, often officers voluntarily record these instances. From these records it is estimated that, per year, approximately 20-35 children under the age of 10 commit violent crimes in Texas.

**Recommendations**

The committee's recommendations outline a comprehensive approach to coordinating the response from law enforcement, juvenile probation, health and human services agencies, courts, and others in order to best protect the interests of the child and the community.

***Enhanced Case Management Services***

- Allow law enforcement officers to continue to use their discretion regarding whether the child can safely remain in the home.
  
- Allow law enforcement officers to take possession of the child without a court order if the following criteria are met:

there is probable cause to believe that the child, while younger than 10 years of age, engaged in certain violent acts;

## **INTERIM DIGEST SENATE COMMITTEE ON CRIMINAL JUSTICE**

there is reason to believe that there is an immediate danger to the physical health or safety of the child or of others, as the result of mental illness or mental retardation; and

it would be contrary to the welfare of the child to remain in the home pending an investigation.

- Allow law enforcement officers to continue to use their discretion in determining where the child should be taken. Options include:
  - the nearest medical facility, if the child is in need of emergency medical care;
  - the nearest mental health facility, if the child appears to be mentally ill and a danger to self or others;
  - a person designated by Texas Department of Protective and Regulatory Services (DPRS), if the child appears to be a victim of abuse or neglect; or
  - an evaluation and processing office designated by juvenile court.
- Require DPRS to initiate immediately court proceedings with the district court, if the child is taken into possession by law enforcement without a court order and DPRS has probable cause to believe that the child should remain outside of the home.
- Require law enforcement officers to prepare an incident report and give a copy of the report to DPRS within 24 hours of the incident.
- Require DPRS to open a file on the case and immediately transmit a copy of the incident report to the state Community Resource Coordination Group (CRCG), the appropriate local CRCG, and the local juvenile probation department, for action.
- Require the local CRCG to assemble local community participants and the child's family to develop an individualized case plan for the child.
- Allow local CRCGs to use Texas Integrated Funding Initiative (TIFI) consultants to assist in developing a comprehensive case plan for the child and family.

### ***Enhanced Placement Services***

- Appropriate a central pool of dollars to the state CRCG through the Health and Human Services Commission, from which the local CRCGs can purchase enhanced services, including residential treatment, for this group of children and their families.

### ***Enhanced Data Collection and Reporting***

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON CRIMINAL JUSTICE**

- Require the Criminal Justice Policy Council (CJPC), with the assistance of DPRS and the Department of Mental Health and Mental Retardation, to develop a reporting instrument to be used to compile data on the size, characteristics, location, and treatment needs of this population of children.
- Require the state CRCG to collect reliable data from local CRCGs and administer the data collection system.
- Require CJPC to report to the 78th Legislature on the data collected.



**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE FIVE**

**Charge**

**Review the statutory purpose of all adult and juvenile correctional facilities, whether state, locally or privately owned or operated, to recommend any needed changes in the statutory description or purpose. The review shall include facilities that are considered alternatives to incarceration or that are used for geriatric care. The committee shall consider whether state jails are adequately managed, if adequate sanctions are available for confinees who fail to participate in programming or who cause disciplinary problems, and how to ensure effective rehabilitation programs in facilities.**

**Background**

Periodically, the criminal justice system must reevaluate the statutory purposes and practical applications of its correctional facilities. The state must ensure that it continues to meet the needs of this ever-changing population. In Texas we have seen an increase in both the juvenile and adult population in our jails and prisons. In the past decade the Texas prison system has grown from approximately 50,000 to over 160,000 offenders.

***Adult Correctional Facilities***

The adult correctional system is administered by the Texas Department of Criminal Justice (TDCJ) and is separated into several divisions: the institutional division, state jail division, parole division, and community justice assistance division. With the increase in demand for more prison beds, TDCJ is looking at options beyond the current leasing of bed space from the counties.

***Institutional Division***

The Institutional Division of TDCJ (ID) oversees the operations of TDCJ's prisons and medical facilities. Preliminary numbers indicate a significant shortfall of necessary bed space in the next few years, and possibly the need to once again embark on a prison building program.

***Parole Division***

The Parole Division of TDCJ is responsible for pre-release planning and supervising offenders released on parole and mandatory supervision. Parole Division facilities include pre-parole transfer facilities, halfway houses, multi-use facilities, work program facilities, county jail work release program facilities, and intermediate sanction facilities (ISF).

ISFs provide temporary incarceration for offenders who have violated the terms and conditions of their parole. There are currently more than 1,600 ISF beds.

**Recommendations**

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON CRIMINAL JUSTICE**

- Look into the feasibility of expanding the number of ISFs.

#### *Community Justice Assistance Division*

The Community Justice Assistance Division (CJAD) of TDCJ administers adult community supervision by distributing state aid to the 122 local community supervision and corrections departments (CSCD). Although not state facilities, it is important to recognize that, as of May 2000, there were 39 community corrections facilities with a total of nearly 3,400 beds. These facilities are administered by local CSCDs and provide sentencing judges an important alternative to incarceration.

#### **Recommendations**

No recommendations were made.

#### *State Jail Division*

The State Jail Division of TDCJ administers the state jail system. This system was created in 1993 to divert non-violent offenders from our overcrowded prisons and provide a cost-effective alternative to the prison system. By housing offenders at a lower cost than prison, state jails save Texas \$70 million in incarceration costs every year.

State jails offer programmatic activities for inmates, such as educational, vocational, and substance abuse programs as well as community service projects. Although participation in six hours of rehabilitative programming is required, there is little a state jail administrator can do to compel an inmate to attend. This is due to the fact that, under a state jail sentence, there is no possibility of a shorter sentence for good time served. (Good time credit, in the prison system, often effectively motivates offenders to participate in rehabilitative programs.)

#### **Recommendations**

- Give state jail administrators the ability to compel inmates to participate in the programming that is a vital component to the rehabilitative process.
- Consider additional restitution requirements and more judicial discretion to allow for post-release supervision placed on those offenders that fail to successfully complete programming.
- Consider giving offenders an incentive to participate in programming by allowing courts to assign more up-front time. (Up-front time is a type of sentencing that allows a judge to set a term of initial incarceration with additional time left on the back end of a sentence for discretionary supervision.)

#### *Juvenile Correctional Facilities*

##### *Texas Youth Commission*

## **INTERIM DIGEST SENATE COMMITTEE ON CRIMINAL JUSTICE**

Although the population of the Texas Youth Commission (TYC) has doubled in the last five years to approximately 5,900 offenders in the system, TYC is projected to have adequate capacity until late 2005. This is due primarily to the consistent drop in juvenile crime over the past several years.

### **Recommendations**

No recommendations were made.

#### *Texas Juvenile Probation Commission*

In 1981, the Texas Juvenile Probation Commission (TJPC) was created to serve the growing population of juveniles being sent into the adult criminal justice system. TJPC was charged with making probation services available across the state, improving the effectiveness of juvenile probation services, and providing alternatives to commitment of juveniles into TYC. The committee recognizes the need for change and resources in the system due to the increase in the number of juveniles in the criminal justice system.

### **Recommendations**

- Give judges the ability to take advantage of innovative sentencing such as “shock” probation and other activities that may aid in the rehabilitation process for juveniles.
- Spell out circumstances under which a juvenile may be detained in pre-adjudication secure detention facilities as a condition of probation.
- Clarify language to prevent juveniles from being ordered into post-adjudication secure correctional facilities prior to being adjudicated for alleged criminal violations.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE SEVEN**

**Charge**

**Review the Interstate Probation and Parole Compact proposed through the National Institute of Corrections (NIC), which is scheduled for release in December 1999. The committee shall make a recommendation as to whether Texas should enter into the compact, considering the fiscal impact the compact may have on state, private, and local entities.**

**Background**

Texas currently follows the Compact for the Supervision of Parolees and Probationers codified in Article 42.11 of the Texas Code of Criminal Procedure. This compact controls the movement and supervision of adult parolees and probationers from a sending state, where the individual has been convicted of a crime, to a receiving state, where jurisdiction over the offender will continue until any sentence is disposed. A 1997 NIC survey revealed over 115,000 adult offenders had been transferred from one state to another. Recent numbers indicate the movement of nearly a quarter of a million offenders governed by the interstate compact. The NIC created a working group comprised of a legislator, a victims' representative, several compact administrators, and representatives from corrections, parole and probation authorities, attorneys general, and the courts to study current practices and draft an improved compact. The proposed Interstate Compact for Adult Offender Supervision (NIC-sponsored Compact) is the result of this working group.

**Recommendations**

After review of the NIC-sponsored Compact and examination of alternatives, the committee summarized the following alternatives for consideration:

- Adopt the NIC-sponsored Compact as proposed by the NIC without amendment.
- Adopt a substantially revised NIC-sponsored Compact in a form similar to the "Revision" provided in the Senate Committee on Criminal Justice, Interim Report, 77th Legislature, Charge Seven, Appendix D.
- Adopt the NIC-sponsored Compact with non-material changes and place a sunset date on the legislation by which time rules must have been adopted consistent with policies set forth in a resolution adopted in conjunction with the compact.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE EIGHT**

**Charge**

The committee shall review efforts by the Texas Commission on Jail Standards (TCJS), the Texas Juvenile Probation Commission (TJPC), and the Texas Youth Commission (TYC) to monitor compliance with statutes and regulations designed to ensure the safety of security personnel and offenders. The committee shall determine if current compliance measures and monitoring are adequate. Also a review of employment standards and adequate background checks shall be conducted to ensure safe operations of facilities and programs. The committee also may consider methods used to employ and retain effective security personnel in adult and juvenile facilities operated by TDCJ and TYC.

*Texas Commission on Jail Standards*

**Background**

The TCJS was the subject of an audit by the State Auditor's Office (SAO). The report of the SAO was released in 1999 and suggested that TCJS implement standards to improve:

- documentation of inspection procedures and results to improve TCJS' ability to look at trends and protect it from the risk of losing knowledge gained from past experience; and
- the use of risk factors in scheduling inspections to ensure that jails with problems are inspected sooner rather than later.

In response to the SAO report, TCJS instituted new policies regarding:

- inspection policies and procedures, specifically relating to scheduling of regular annual inspections, occupancy inspections, special inspections, unannounced visits and inspections, reviewing inmate requests for assistance, inspecting juvenile housing, unavailability of an inspector, smoke masks, and counties with both public- and privately-operated facilities; and
- the assessment of high risk facilities.

**Recommendations**

No recommendations were made.

*Texas Juvenile Probation Commission*

No recommendations were made.

*Texas Youth Commission*

## **INTERIM DIGEST SENATE COMMITTEE ON CRIMINAL JUSTICE**

### **Background**

Recruitment and retention of correctional officers in both the adult and juvenile correctional systems received extensive attention during this interim. As a result, both adult and juvenile correctional officers received a raise during 2000. The pay increase appears to have caused a drop in the turnover rate for correctional officers at TYC. TYC is proposing to significantly increase the hours of training during the first six months of service beginning in FY 2001. Currently, Texas juvenile correctional officers receive 80 hours of training, while the national average is 160 hours.

### **Recommendations**

No recommendations were made.

### ***Texas Department of Criminal Justice***

### **Background**

TDCJ has experienced a shortage of correctional officers due to two main factors: an economic boom that has thinned the ranks of low-paid correctional officers and an increasing prison population (from 50,000 to 160,000 in the past ten years), which has put more strain on the remaining guards. The shortage of correctional officers grew to crisis level this summer. To temporarily quell the crisis, TDCJ gave a pay raise to veteran officers by adjusting the career ladder.

### **Recommendation**

- Address the continued funding of the updated career ladder for correctional officers.

**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE NINE**

**Charge**

**Evaluate the collection efforts for criminal fines, and costs imposed by courts to determine how collection efforts may be enhanced, including incentives to increase collections. The committee shall determine what fees may be imposed on offenders and which entities are entitled to a portion of the collected fees.**

**Background**

Criminal violations of state law are generally designated as either misdemeanors or felonies. In addition to any punishment rendered, an offender is responsible for a variety of fees and court costs depending on the jurisdiction of the proceeding. The state and local political subdivisions will share in the monies collected under this effort. The Office of Court Administration (OCA), a branch of the Texas Supreme Court, estimates that in fiscal year 1997, both state and local uncollected revenues from criminal cases exceeded \$100,000,000. With so many fees and court costs uncollected, local jurisdictions should make every effort to collect as much of this revenue stream as possible.

**Recommendations**

- Urge the state to undertake a comprehensive review of revenue distributions to determine if incentives are in place, which promote better collection efforts.
- Urge prudent appropriation and fee distribution be made for the Office of Court Administration to insure its ability to continue to provide timely, quality training and assistance to political subdivisions.

The committee also recognizes that other areas for streamlining collection efforts could increase participation and raise badly needed local revenues. Below are the conclusions the committee makes:

- Recommends that the Parole Division of the Texas Department of Criminal Justice establish and maintain a better working relationship with local jurisdictions to insure notification and promote collection efforts for parolees upon their release from incarceration.

The Parole Division and its field staff should make every effort to notify the jurisdiction where the offense was committed of the release of the offender and the proper information necessary for contacting the offender and establishing collection schedules from that person.

- Carefully review any proposed additional fees and court costs and attempt to consolidate these costs into one consolidated fee structure.

## **INTERIM DIGEST SENATE COMMITTEE ON CRIMINAL JUSTICE**

In addition, the Legislature should consider the continued review and possible sunset review of certain fees that no longer meet their intended purpose.

- Review and establish a simple system for allocating fees and other costs paid in an installment arrangement.
- Review and establish a plan to reimburse local governments a percentage of state fees if the entity has successfully increased collections by a specified margin.

This incentive would compel political subdivisions to pursue more aggressive collection efforts and employ the Office of Court Administration model.



**SENATE COMMITTEE ON CRIMINAL JUSTICE:  
CHARGE TEN**

**Charge**

**Monitor correctional capacity needs of adult and juvenile facilities.**

**Background**

Tracking and monitoring the correctional capacity of Texas' adult and juvenile correctional facilities is the purview of the Texas Criminal Justice Policy Council (CJPC).

**Findings**

The CJPC has reported the following findings to the legislature.

- At this point, the Texas Department of Criminal Justice has a system-wide correctional capacity of approximately 154,000 beds. Assuming the continuation of current release policies, there will be a need for 14,662 beds by 2005. Presently, there are over 4,000 beds available in county jails that can meet some of the short-term capacity needs.
- Although the population of the Texas Youth Commission (TYC) has doubled in the last five years to approximately 5,900 offenders in the system, TYC is projected to have adequate capacity until late 2005. This is due primarily to the consistent drop in juvenile crime over the past several years.

**Recommendations**

No recommendations were made.

# INTERIM DIGEST

## SENATE COMMITTEE ON CRIMINAL JUSTICE

### SENATE COMMITTEE ON CRIMINAL JUSTICE: CHARGE ELEVEN

#### Charge

Monitor the implementation on the following bills enacted during the 76<sup>th</sup> Legislature, Regular Session: Senate Bill 8, relating to the compilation of criminal information pertaining to criminal street gangs and criminal combinations; Senate Bill 352, relating to requirements for membership on or employment by the Board of Pardons and Paroles; Senate Bill 365, relating to the continuation and the functions of the Texas Department of Criminal Justice, the administration of the Private Sector Prison Oversight Authority, the administration of the Texas Council on Offenders with Mental Impairments, and the civil commitment of sexually violent predators; Senate Bill 370, relating to the continuation and the functions of the Department of Public Safety; Senate Bill 371, relating to the continuation and functions of the Correctional Managed Health Care Advisory Committee; and House Bill 2617, relating to the continuation of the Texas Board of Private Investigators and Private Security Agencies as the Texas Commission on Private Security, to the functions performed by that agency, and to certain political subdivisions relating to alarm systems.

#### *Senate Bill 8 (Statewide Gang Database)*

#### Background

Although previous legislation opened the door to collecting information relating to criminal combinations, S.B. 8 represented a comprehensive approach to collecting, maintaining and using criminal intelligence information for the purposes of investigating and prosecuting criminal offenses committed by criminal street gangs on a statewide basis.

Implementation of the statewide criminal street gang database is underway and appears to be on schedule.

#### Recommendation

No recommendations were made.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON CRIMINAL JUSTICE**

#### *Senate Bill 352 (Board of Pardons and Parole)*

##### **Background**

The Board of Pardons and Parole (board) has eighteen members appointed by the governor. The board decides who is granted parole under what conditions, revokes parole, and recommends who should be granted clemency. The board was reviewed by the Texas Sunset Advisory Commission, which made recommendations to both the 75<sup>th</sup> and 76<sup>th</sup> Legislatures. The recommendations were geared to improving the board's ability to manage its affairs and its parole revocation hearings.

The board has implemented the changes enacted by the 75<sup>th</sup> and 76<sup>th</sup> Legislatures.

##### **Recommendation**

No recommendations were made.

#### *Senate Bill 365 (Texas Department of Criminal Justice)*

##### **Background**

The Texas Department of Criminal Justice (TDCJ) has responsibility for the oversight of probation departments, the incarceration of offenders, and the supervision of parolees. S.B. 365 continued TDCJ for 12 years after Texas Sunset Advisory Commission review, revised funding sources for probation departments, and improved oversight and operational aspects for both TDCJ and private sector prison industries programs. Improvements were also made to methods for keeping track of offenders in job training and work programs. Finally, the bill added provisions for civilly committing persons identified as sexually violent predators upon completion of their sentences or upon release from a facility of the Texas Department of Mental Health and Mental Retardation. (Since enactment, two persons have voluntarily committed themselves and a number are awaiting trial to be involuntarily civilly committed.)

TDCJ has implemented or is in the process of implementing provisions enacted in S.B. 365.

##### **Recommendation**

No recommendations were made.

#### *Senate Bill 370 (Texas Department of Public Safety)*

##### **Background**

S.B. 370 continued the Texas Department of Public Safety (DPS) for 10 years subsequent to review by the Texas Sunset Advisory Commission. The bill strengthened DPS' internal oversight and accountability, employee relations, and the efficient use of limited resources. The 76<sup>th</sup> Legislature provided additional resources, authority, and

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON CRIMINAL JUSTICE**

encouragement to assist DPS in managing its affairs. DPS has implemented or is in the process of implementing provisions enacted in S.B. 365.

#### **Recommendation**

No recommendations were made.

#### ***Senate Bill 371 (Correctional Managed Health Care Advisory Committee)***

#### **Background**

The Correctional Managed Health Care Advisory Committee (CMHCAC) was created in 1993 to address concerns surrounding the rising costs of offender health care, particularly given the sizable growth in the Texas prison population. Currently, health care is provided, under contract, by the University of Texas Medical Branch at Galveston and the Texas Tech University Health Science Center.

S.B. 371 continued CMHCAC for six years after review by the Texas Sunset Advisory Commission, expanded CMHCAC's membership, and made it clear that CMHCAC is to manage the contracts for health care and monitor the quality of care the inmates receive.

CMHCAC has implemented provisions enacted in S.B. 365.

#### **Recommendation**

No recommendations were made.

#### ***House Bill 2617 (Texas Commission on Private Security)***

H.B. 2617 continued Texas Commission on Private Security for ten years.

#### **Recommendation**

No recommendations were made.

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT:  
FINANCIAL MODERNIZATION**

**Charge**

**Monitor trends affecting the convergence of the banking, securities, and insurance industries, including market forces and federal government activity. The committee shall make recommendations for statutory or regulatory changes at the state level as necessitated by changes in federal law or industry trends. The committee shall also evaluate pending federal legislation affecting financial institutions, specifically in the area of bankruptcy, analyzing how potential changes affect Texas law. The Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act, was enacted by Congress before this interim charge was issued.**

**Background**

Congress enacted the Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act, on November 12, 1999, before this interim charge was issued. A partial requirement of GLBA is that at least a majority (29) of the states adopt uniform agent licensing laws or allow reciprocity among the states prior to November 12, 2002. Failure to do so will set into motion the establishment of the National Association of Registered Agents and Brokers (NARAB) that will institute uniform licensing of agents at the expense of state control of that function.

**Recommendations**

- Reintroduce S.B. 956 from the 76th Legislature with minor modifications necessary to comply with GLBA to bring the licensing laws for insurance agents in Texas into conformity with reciprocity requirements for interstate licensing of insurance agents. Streamline the licensing function of insurance agents at Texas Department of Insurance (TDI) and establish equal treatment in agents' licensing requirements for all financial institutions.
- Amend the affiliation provisions of the Insurance Code to limit the review period to 60 days.
- Amend the Finance Code to require additional disclosure concerning ATM fees.

# INTERIM DIGEST

## SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

### *GLBA Privacy Requirements and Confidentiality of Agency Information*

#### **Background**

Under the provisions of GLBA, states are required to adopt requirements on privacy and disclosure of non-public personal financial information applicable to the insurance industry. Federal regulators are required to adopt privacy regulations for other financial institutions. Seven federal regulatory agencies have already adopted privacy rules as required by GLBA. Federal privacy rules apply to all financial institutions, and must be in compliance with the federal rules by July 1, 2001.

#### **Recommendations**

- Enact new privacy laws on non-public personal financial information as required by GLBA, and based on federal law, federal rules enacted by the federal agencies, and the model regulation entitled “Privacy of Consumer Financial and Health Information Regulation” adopted by the National Association of Insurance Commissioners.
- Enable state agencies that regulate financial institutions to share regulatory information while maintaining confidentiality.

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT:  
IMPLEMENTATION OF S.B. 560**

**Charge**

**Monitor the implementation of S.B. 560, 76th Legislature, regarding the regulation of telecommunications utilities by the Public Utility Commission and the provision of telecommunications services.**

**Background**

All Texans' telephone bills include several fees and surcharges subject to state and local taxes. The revenue derived from these collections funds either public programs or is returned to private companies. The committee investigated whether assessing sales tax on these fees and surcharges is duplicative and explored whether further taxation of these collections is counter to the purpose of the various fees and surcharges.

**Recommendations**

- Exempt the Telecommunications Infrastructure Fund surcharge, the Public Utilities Gross Receipts tax, and the Municipal Franchise fee from sales tax.
- Study further the Texas Universal Service Fund and the Federal Universal Service Fund charges to determine whether these charges merit exemption from sales tax.

**INTERIM DIGEST  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT  
SUBCOMMITTEE ON CONSUMER CREDIT LAWS**

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT:  
SUBCOMMITTEE ON CONSUMER CREDIT LAWS**

**Charge**

**Review the constitutional usury provisions in Article 16, Section 11 of the Texas Constitution, relating to the maximum rates of interest for contracts entered into in the state. Study the effect of usury limits on the various consumer-lending entities in the state**

**Background**

Sale/leaseback transactions and payday loans were brought to the attention of the 76<sup>th</sup> Legislature for the first time. No conclusive legislative solution was reached to address the problem caused by illegal payday lending practices despite considerable testimony from proponents and opponents and the filing of legislation in both chambers. Since the last usury amendment to the constitution forty years ago, a variety of businesses and business practices circumvent the requirements of Article 16, Section 11. According to the report, some of this circumvention is statutorily sanctioned but illegal operations involving unauthorized lenders making usurious loans to consumers at an extremely high annual interest rate occurs as well. Furthermore, some of these illegitimate lenders used local law enforcement and criminal justice systems as their collection agencies.

The Texas Finance Commission (TFC) approved 7 TAC §1.605, adopted under Texas Finance Code §11.304, which authorizes regulated lenders to engage in payday loans under the authority of Subchapter F, Chapter 342 of the Texas Finance Code. The legislature is authorized to classify loans and lenders, license and regulate lenders, define interest and fix maximum rates of interest; provided, however, in the absence of legislation setting maximum rates of interest, all contracts for a greater rate than 10 percent per annum interest are considered usurious; and provided that in contracts where no rate of interest is agreed upon, the rate shall not exceed six per cent per annum.

**Recommendations**

- Ensure that a sale/leaseback transaction involving consumer goods is defined such that an agreement to defer the payment of a debt and an absolute obligation to repay a debt exists.
- Require that businesses offering sale/leaseback transactions provide customers with federal Truth-in-Lending Act disclosures.
- Monitor the implementation of TFC's newly approved 7 TAC 1.605.

**Charge**

**Evaluate the effect of pending federal Financial Services Modernization Act on consumer credit laws in Texas.**

**Background**



**INTERIM DIGEST  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT  
SUBCOMMITTEE ON CONSUMER CREDIT LAWS**

The passage of the Gramm-Leach-Bliley Act (“GLBA”), or the Financial Services Modernization Act, allows for banks, insurance companies, and securities firms to engage in common ownership through affiliations or holding company structures. Since 1934, federal law had prohibited affiliations between commercial banks and securities firms. Likewise, federal law had separated banks and insurance companies since 1955.

GLBA eliminates pre-existing federal and state laws that prevent common ownership of entities that engage in insurance, securities, and banking activities. Additionally, GLBA pre-empts state agent licensing laws that prohibit or interfere with a depository institution’s ability to sell insurance.

**Recommendation**

- Monitor the progress of federal and state regulators’ promulgation of privacy rules connected to the GLBA of 1999.

**INTERIM DIGEST**  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT:**  
**SUBCOMMITTEE ON PRIVATE SECTOR BUSINESS FINANCING**

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT:**  
**SUBCOMMITTEE ON PRIVATE SECTOR BUSINESS FINANCING**

**Charge**

**Study trends relating to the availability of private sector business financing in an effort to find ways to promote entrepreneurship, job creation, and economic development in Texas.**

**Background**

Texas ended the millennium with an estimated 9.31 million jobs, over one-fourth of which were created in the last decade. This job surge gave us average annual increases of 3.0 percent throughout the 1990s, giving Texas the distinction of adding more jobs than any other state in that decade. Our 2.35 million new jobs—through December 1999—substantially outpaced California, which is second with 1.79 million jobs and third-place Florida with 1.72 million jobs.

The Texas economy is advancing, due, in part, to a business-friendly government, immigration, and an expanding high-tech manufacturing sector. Forecasters consider the state a strong performer with above-average, long-term growth potential, although the Texas economy has some weaknesses due to the volatile energy industry and the state's exposure to federal spending cuts. To stay competitive, Texas must continue to attract new investment and preferred industries that will provide high-paying jobs, such as telecommunications equipment manufacturers.

Between 1990 and 1997, Texas added more high-tech jobs than any other state. To further enhance Texas' attractiveness to high-growth sectors, incentives are needed to improve our presence in areas such as healthcare technology, in particular, biotechnology, which can add to our competitive position. States like New Jersey already allow business tax credits up to \$500,000, funds that can be invested into promising companies.

**Recommendations**

- Reauthorize the Texas Product Development Fund and Texas Small Business Incubator Fund.
- Establish Certified Capital Companies (CAPCOs) in Texas.
- Provide investment tax credits for investments in qualified Texas companies.
- Encourage greater commercialization of university research in Texas through increased incubation efforts.

# **INTERIM DIGEST SENATE COMMITTEE ON ECONOMIC DEVELOPMENT: SUBCOMMITTEE ON STATE 9-1-1 EMERGENCY COMMUNICATIONS**

## **SENATE COMMITTEE ON ECONOMIC DEVELOPMENT: SUBCOMMITTEE ON STATE 9-1-1 EMERGENCY COMMUNICATIONS**

### **Charge**

**Study any needed changes to create a more efficient, cost effective and reliable 9-1-1 emergency communications system, including the development and implementation of wireless 9-1-1. The committee shall hold joint hearings with the committee on Intergovernmental Relations on this charge.**

### **Background**

The size and diversity of Texas compound the impact that advances in technology have on 9-1-1 systems and complicate the delivery of emergency services. Historically, these complexities have forced the Texas 9-1-1 community to aggressively address issues of concern.

### **Recommendations**

- Revisit the statutory definition of 9-1-1 in the Health and Safety Code to allow for expanded use of the 9-1-1 fees collected by the Councils of Government (COGs) and Emergency Communication Districts (ECDs). Create a comparable 9-1-1 service by applying the same definition to COGs, ECDs and Home-Rule Cities.
- Reduce the administrative involvement of the COGs via state catalogue purchasing of products and services for: addressing, training, and enhancing 9-1-1 systems to include database, network, and equipment.
- Compel the Commission on State Emergency Communications (Commission) to update the network, database, and equipment used in 9-1-1-service.
- Create Regional 9-1-1 call centers.
- Create incentives to fully implement wireless Phase II – Automatic Location Identification (ALI) – in urban areas.
- Fully implement an Emergency Call Box Program in rural Texas.
- Clarify the statute to prohibit cities from opting out of a regional approach for the delivery of 9-1-1 service. Also, revisit the statutory ceiling placed on the amount of fees assessed and their appropriate uses.
- Require Home-Rule Cities to either form an ECD or join the state program.

**SENATE COMMITTEE ON EDUCATION**

**Charge**

**Study the involvement of institutions of higher education in the state's public K-12 schools related to: (1) preparing students for college, and (2) creating greater access to college. The committee shall identify successful practices and the necessary legislative role, if any, in expanding or enhancing such partnerships.**

**Background and Recommendations**

According to the Legislative Budget Board (LBB), the most effective collaboratives develop prior to the introduction of external funding, and are part of a greater goal, especially one that involves the whole community. The LBB also noted that few partnerships are regularly evaluated, making it difficult to judge their effectiveness.

The committee report featured Project GRAD, a partnership of the University of Houston, Jeff Davis High School in the Houston Independent School District, and Tenneco. Project GRAD boosts the academic performance of at-risk students by providing increased opportunities for student achievement and summer institutes to enrich basic subject knowledge and skill; the program is regularly evaluated, closely monitors student achievement, and is credited with dramatically decreasing the high school's dropout and teen pregnancy rates.

- Study and create financial incentives for public education/higher education partnerships aimed at preparing all students for post-secondary education, including an accountability measure for effectiveness.

In Texas, only 41 percent of high-school students graduate with a college-preparatory curriculum, but 48 percent go directly to college, and an additional 18 percent enroll in college before reaching 23 years of age. To prepare all students for the demands of higher education, public school staff and teachers need to know college expectations and prepare their students to become successful college students.

- Encourage districts to adopt the Recommended High School Curriculum (below) as their default curriculum, allowing students to opt into a plan that may be more, or less, rigorous.

4 credits of English language arts

3 credits of math: Algebra I&II and geometry

3 credits of science

3.5 credits of social studies

2 credits of foreign language

1 credit of fine arts

## **INTERIM DIGEST SENATE COMMITTEE ON EDUCATION**

- .5 credits of economics
- .5 credits of speech
- .5 credits of health
- 1.5 credits of PE
- 1 credit of technological applications

Teachers must have a clear understanding of the academic standards needed for achievement in college to equip students with the academic preparation to excel in higher education. The University of Texas at El Paso and the El Paso Center for Professional Development and Technology adopted a field-based approach to preparing new educators and began providing professional development for in-service teachers. This community-wide approach focusing heavily on teacher quality has created more than 75 recognized or exemplary schools.

- Study and create a funding mechanism to foster K-16 partnerships to provide educator preparation training and professional development.

The Longhorn Opportunity Scholarship, coupled with the top ten percent rule, has been credited with increasing the undergraduate minority enrollment of the University of Texas at Austin (UT-Austin) to levels achieved before the limitation on affirmative action resulting from the Hopwood decision. The university sets aside scholarship money for students who come from schools that generally do not send students to UT-Austin. Once on campus, these students receive tutoring and mentoring to facilitate high academic performance.

The University Outreach program, an auxiliary of UT-Austin and Texas A&M University, operates in six Texas cities: Austin, Corpus Christi, Dallas, Houston, McAllen, and San Antonio. University Outreach identifies secondary school students with above-average academic performance and provides them with mentoring in goal setting, career choices, financial aid, and college preparation. In 1997, 80 percent of University Outreach participants enrolled in an institution of higher education (IHE).

- Increase the number of proven pre-college outreach programs.
- Require any partnership program funded by state revenue to include accountability measures to determine program effectiveness.
- Develop and implement a mechanism that provides information to high schools and the public regarding the achievement of first-year college students in Texas.
- Evaluate the effectiveness of higher education outreach programs and counselor preparation programs, with regards to increasing student preparation for college.

Student attendance and satisfaction decrease as school size increases, resulting in higher dropout rates for larger high schools. High schools with 600 to 900 students report lower ninth-grade failure rates, better attendance, higher extracurricular involvement, and

## INTERIM DIGEST SENATE COMMITTEE ON EDUCATION

greater academic accomplishment, especially for low-income and minority students. No consensus exists on which is more financially efficient and equitable.

- Study the effects of school size on student performance and the role it should serve in school-growth planning and management.

### Charge

**Study the issues of teacher shortages and teacher utilization, including: projected public school student enrollment growth; recruitment strategies and resources for the production of teachers by universities or other providers; university-based and other teacher preparation program production levels; the impact of alternative teacher certification programs; the sufficiency of preparation of beginning teachers, particularly as it relates to growth in at-risk student populations; the benefits of creating additional state-funded teacher stipend programs in the areas of math and science; and strategies for attraction and retention of teachers, including the impact of competitive salaries and benefits, performance pay, and master teacher and critical shortage area incentives.**

### Background and Recommendations

Research suggests induction programs lead to increased retention of new teachers. Texas has mandated teacher induction since 1991, but the legislature has never funded it. A State Board of Educator Certification (SBEC) panel examined the need, costs and potential benefits of a novice-teacher-mentoring program. The panel identified academic and financial incentives for supporting a mentor program: novice-teacher effectiveness can improve with appropriate support; as teachers gain experience, their students pass TAAS at higher rates; and the cost of recruiting and hiring an unsuccessful teacher may be more than double that teacher's first-year salary.

- Develop a mentor program to retain new teachers by providing professional support. The program should train mentor teachers and compensate them for extra responsibility.

Allowing retired teachers to return to the classroom as soon as permitted by federal tax law would increase the number of experienced teachers available thereby improving learning and TAAS scores of students.

- Allow all retirees, not just those in critical shortage areas, to teach full-time and discontinue requiring them to sit out a full year after retirement.
- Create a loan forgiveness program for teachers that will offset the cost of getting a baccalaureate degree. Expand the Teach for Texas Conditional Grant to include alternative certification program (ACP) candidates, and appropriate funds to implement the Teach for Texas Pilot Program relating to alternative certification.

A mortgage assistance program may be a low-cost, high-benefit incentive the state can offer teachers. A program, similar to the Texas Veteran's Land Board bond-funded

## INTERIM DIGEST SENATE COMMITTEE ON EDUCATION

program for veterans, would be self-supporting because the bonds and cost of program administration are paid with revenue from home mortgages.

- Provide a teacher mortgage assistance program to act as an incentive for teachers to enter and stay in teaching.

Many teachers are not comfortable teaching math and science and continue to need enrichment in teaching techniques, technology, and other skills. Sustained and high intensity math and science professional development aligned with challenging state standards lead to more confident teachers who are better skilled and equipped to teach, and therefore are more likely to continue teaching and teaching well. A math teaching initiative would provide schools with expert math educators who can offer enrichment to other math instructors as needed.

- Increase the proficiency and retention of math and science teachers by providing state funds to supplement targeted professional-development programs.
- Create a Master Math Teacher program modeled after the Master Reading Teacher program.

Rewarding all educators would motivate teachers who do not teach in core courses to improve learning school-wide.

- Adopt a pay-for-performance plan that rewards cooperation and teamwork among campus professionals by giving bonuses to all professional employees at a campus when students meet certain performance targets as measured through the Texas Learning Index.
- Create a performance fund that will reward educator-preparation programs for increasing their production levels of certified teachers.

Costs and benefits of health insurance vary widely among school districts. About 200,000 ISD employees have access to family rates of \$500 or more per month. Access to reasonably priced health insurance may improve retention of teachers.

- Establish and phase in a statewide health insurance program for educators comparable to that provided to state employees through Employees Retirement System.

### Charge

**Study issues related to the state's current method for reporting public school dropouts and the accuracy of the information provided by these methods. The committee shall identify possible criteria to be considered by state and local agencies in ensuring the accuracy of such data.**

### Background and Recommendations

## INTERIM DIGEST SENATE COMMITTEE ON EDUCATION

Inconsistency in the various calculations of the dropout rate has caused many people to dispute the accuracy of Texas Education Agency (TEA) dropout rates. Most methods of calculating dropouts contain biases that either increase or reduce the rate.

TEA now uses grades 7 to 12 to calculate the dropout rate. Including grades 7 and 8, where relatively few drop out, reduces the dropout rate by including a larger number of students in the base. The dropout rate will increase about two percent after seventh- and eighth-graders drop out of the base. The dropout rate is the number of students who do not graduate or earn a GED and do not reenroll in the next semester, who are expelled, or return to their home country, divided by the total number of students enrolled in grades 9 through 12.

A completion rate would be calculated by dividing all students in one cohort group who graduate on time or early, who continue to attend high school after the expected graduation date, and who earn GED certificates, by the number of first-time, ninth-grade students in the base year, plus transfers in and out of the district.

- Revise the Academic Excellence Indicators, as set out in the Texas Education Code, to include both dropout and district completion rates for grades 9-12 for purposes of the state's accountability rating system.

Estimating school dropout rates has become a major concern in the legislature and with educators who doubt its accuracy. To resolve the dispute over rate calculations, the legislature required the issue to be studied and reported. The committee decided that TEA collects enough data to calculate actual dropout rates.

- In partnership with the above recommendation, and in the interest of gathering more meaningful data, repeal the provisions related to the estimated rates for dropouts in Texas.

In 1996, the State Auditor's Office commented that the quality of dropout data reported to TEA possibly led the agency to underestimate the dropout rate by more than half.

- Revise the statutory provision related to school districts' annual fiscal audit to require auditing of school districts' data quality as it relates to dropout reporting.
- Recommends that TEA work to generate more accurate dropout rates by: (1) refining the current formulas to remove existing bias; (2) monitoring the quality of data being submitted by the districts; and (3) adding more automatic data checking to PEIMS.

### Charge

**Monitor the implementation of the following bills enacted during the 76<sup>th</sup> Legislature, Regular Session: S.B. 4 relating to appropriations regarding public school finance, property tax relief, and public education; S.B. 103 relating to state assessments of public school students; S.B. 104 relating to keeping school campuses open after school hours for recreational purposes, latchkey programs, and tutoring; S.B. 875 relating to the financial accountability of school districts; S.B. 955 relating to pre-reading instruction for certain children; H.B. 2075 relating to the public**



## INTERIM DIGEST SENATE COMMITTEE ON EDUCATION

notice required to be provided by a school district before adopting a proposed budget and tax rate; and H.B. 2307 relating to assistance to certain low-performing public school districts. Particular attention should be paid to S.B. 4, with emphasis on evaluating the legislation's impact on changes in teacher compensation and benefits; the effect on fast growth school districts; the overall impact on school finance system equity; the effect of the instructional facilities allotment and Tier 3; the initial implementation of provisions related to ending the practice of social promotion; and the enhancement of pre-kindergarten, kindergarten and ninth grade programs.

### Background and Recommendations

#### *Related to S.B. 4*

**Teacher pay:** On average, starting teachers saw a 13 percent increase to \$26,338; returning teacher's pay increased 11.3 percent, and the overall average increased nine percent to \$37,410. The average salary for senior teachers rose 7.5 percent to \$44,641.

**Funding for fast growth school districts:** It is too early to tell the effect of this additional funding.

**School finance system equity:** Two of three measures developed by the Legislative Budget Board – percent of students and percent of revenue in the equalized system – increased. The third yardstick, the revenue gap between the state funding level and the equalized level, may no longer provide a comparable figure because of changes in the financing scheme.

**Instructional facilities allotment (IFA) and new facilities tier (Tier 3):** The IFA appropriation provided \$900 million of debt service tax relief, and Tier 3 funded about \$5 billion of bond debt.

**The initial implementation related to ending social promotion:** The grants have provided intensive training in reading for 14,000 kindergarten and a similar number of first-grade teachers in the biennium.

**Enhancement of half-day pre-kindergarten, kindergarten and ninth grade programs:** This appropriation provided grants to fund full-day pre-K in 157 school districts and charter schools, and funding for 234 school districts and education consortiums to provide Basic Skills Program for ninth graders.

- Continue monitoring S.B. 4.

#### *Relating to S.B. 103*

- Decrease excessive testing of Limited English Proficient (LEP) students by requiring students to take the TAAS in English only after they have demonstrated proficiency in English through the Reading Proficiency Test in English. A LEP student should not be allowed, however, to go more than three years without taking the TAAS in English.

## **INTERIM DIGEST SENATE COMMITTEE ON EDUCATION**

### ***Relating to S.B. 104***

Keeping school campuses open after school hours for recreational purposes, latchkey programs, and tutoring has not created problems that need to be addressed by the legislature.

### ***Relating to S.B. 875***

This bill concerns financial accountability of school districts. The proposal by the Commissioner of Education and the Comptroller of Public Accounts will be submitted to the legislature after publication of the interim report. The commissioner will discuss it during hearings of the committee.

- Recommends that the Commissioner of Education be invited to brief the full Senate Education Committee on any proposals related to this bill as early as possible during the 77th legislative session.

### ***Relating to S.B. 955***

\$2 million in grants were distributed to 10 school districts and cooperatives to create pre-reading programs for pre-kindergarten students.

- Recommends that the legislature consider creation of programs, similar to the existing reading programs, to focus on math instruction.

### ***Relating to H.B. 2075***

This bill concerns the public notice required to be provided by a school district before adopting a proposed budget and tax rate.

- No problems have been reported, but the legislature should continue monitoring this law.

### ***Relating to H.B. 2307***

This bill is related to assistance to certain low-performing public school districts. It established the Master Reading Teacher program, and 17 universities and Regional Education Service Centers have developed curricula to train MRT.

- Create a program similar to the Master Reading Teacher for math instruction.

**INTERIM DIGEST  
SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON ERS AND TRS BENEFIT ISSUES**

**SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON ERS AND TRS BENEFIT ISSUES**

**Charge**

**Review employee benefit issues facing the Employees Retirement System (ERS) and Teacher Retirement System (TRS). The review shall include, but is not limited to, funding contingencies, projected funding needs of TRS-Care, HMO competition and the cost of providing health plans, and the issues surrounded provision of Optional Retirement System or other alternatives for state employees.**

**Background**

Escalating costs in health care required independent review over this interim. TRS needed direct appropriations to keep its retiree health insurance plan solvent. The subcommittee made the following recommendations on these topics that will be summarized individually.

***TRS Retiree Health Insurance (RHI)***

RHI provides coverage for about 127,000 retired teachers and dependents. Retirees get catastrophic care coverage (TRS-Care-1), but 70 percent of participants pay the additional premium necessary to enroll in the comprehensive health benefits plan (TRS-Care-3). Prior to 1986, when the state required it, most school districts (ISDs) did not participate in Medicare, but about two-thirds of retirees have Medicare.

The state contributes one-half of one (0.5) percent of each ISD's payroll, resulting in a projected \$175 million payment this biennium to the fund. Active teachers have a 0.25 percent payroll deduction (\$88 million) to support the program and participants contribute \$245 million in premiums to the fund. Costs in the insurance program have risen 18 percent this biennium and are expected to again increase 18 percent in each year of the next biennium. The committee determined the most significant factor in cost increases is prescription medications. Medicare does not pay for prescriptions, which account for about one-third of TRS-Care's expenses. Contributions from the state and active employees will increase by only four percent.

To prevent insolvency in the current biennium, the 76<sup>th</sup> Legislature appropriated an additional \$76 million. Even after that infusion of new money, the fund reserve declined from \$99 million to \$39 million over the current biennium. For the next biennium, the fund will need an additional \$390 million over its projected formula funding and will further reduce the reserve by \$24 million to \$15 million during the 2002-2003 biennium.

**INTERIM DIGEST  
SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON ERS AND TRS BENEFIT ISSUES**

**Recommendations**

- Increase state funding to 0.95 percent of ISD payrolls to increase the general revenue appropriation to the fund by \$178 million.
- Reduce active school employees' contributions to the retirement fund from 6.4 percent to six percent and increase deduction for TRS-Care by .4 percentage points to 0.65 percent, producing an additional \$158 million for TRS-Care.
- Increase retirees' pension payments and their share of insurance costs by equal amounts to raise another \$30 million, resulting in no net effect on retirees' monthly checks.

If adopted, the recommendations would increase state appropriations to \$376 million and would reduce the estimated TRS-Care fund balance by \$24 million.

***ERS Health Insurance***

ERS Uniform Group Insurance Program (UGIP) provides health, life, dental and disability coverage to 520,000 state and higher education employees, retirees, and their dependents. Texas A&M System and The University of Texas System have separate programs.

The state contribution for this biennium is \$1.6 billion, including \$1 billion from general revenue. The state pays the total cost of health insurance for employees and retirees and 50 percent of dependent coverage. Nearly 21,000 state employees have dependent children and a family income low enough to qualify for the Children's Health Insurance Program.

Beginning in September 2000, ERS increased prescription co-payments of employees to increase revenue by \$52 million. The employee share of family coverage will increase 16 percent. Even with these increases, the health insurance reserve fund will decrease from \$170 million in September 1999 to \$29 million in September 2001. ERS projects a need for \$513 million to fund the UGIP in the next biennium.

**Recommendations**

- Increase the state contribution to ERS by \$391 million.
- Increase the retirees' contribution to the health plan by increasing the retirees' annuities and recapturing \$92 million of that increase, resulting in no net effect on retirees' monthly checks.

If adopted, this recommendation would increase the state's contribution to the ERS UGIP from \$1.643 billion to \$2.034 billion for the next biennium, an increase of 24 percent, and would deplete the reserve fund.

***UTS and TAMUS Health Insurance***

**INTERIM DIGEST**  
**SENATE COMMITTEE ON FINANCE:**  
**SUBCOMMITTEE ON ERS AND TRS BENEFIT ISSUES**

UTS and TAMUS provide separate health insurance plans for their 72,000 employees and retirees. The state funds the higher education plans on the same basis as ERS. One appropriation is shared pro-rata by the two systems that both systems supplement with large contributions of non-GR revenue. As with TRS and ERS, costs exceeded the available revenue, and employees bear an increasing share of the costs, but only UTS reduced reserve funds and added other institutional funds. TAMUS added an additional \$8 million of other funds to preserve its reserve balance.

Both UTS and TAMUS project their plans to cost \$732 million for FY 2002-2003, \$103 million more than 2000-2001.

**Recommendation**

- Increase state funding proportional to increases for ERS UGIP: \$47.3 million, a 24 percent increase for each system.

***Increases in Prescription Drug Costs***

Prescription drug costs to ERS Health Select increased 20 percent per year, more than double the rate of other medical costs. The pharmaceutical industry cited the commonly heard reasons for the increase: increased use, drug research and approval costs, low success rates of approving new drugs, and short patent life. The subcommittee observed that the drug industry is responsible for some of those outcomes, especially linking direct consumer marketing of drugs to high use rates and lower pricing in other countries. The committee found itself unable to determine the basis of soaring costs to the state group insurance plans.

Other states have started efforts to reduce drug costs. New York legislators have proposed a bill that requires drug prices in New York to be no more than prices in other countries. Some states are considering bulk purchases and buying consortiums. Maine has recently enacted the Maine Prescription Drug Fair Pricing Act. It creates the Maine RX program that allows the state to negotiate prices and rebates for under-insured residents. The act also endorses Maine joining other states to negotiate, penalizes entities that over-charge or restrict supplies, and requires the state to set maximum retail prices for prescription drugs after July 1, 2003.

**Recommendation**

- Require the Comptroller of Public Accounts and the State Auditor's Office to conduct a detailed audit of the state's health plans with a focus on the reasons for and possible solutions to rising prescription drug costs.

***HMO Competition***

Since 1997, the number of HMOs in the state declined from 52 to 45, thereby reducing competition. As a result, premiums have continued to rise, and few HMOs have made acceptable proposals to ERS. ERS requested each HMO bidding on state plans to submit two offers, one with current benefits and one with reduced benefits, which the board expected to produce substantial savings. Bids on reduced benefit plans increased an average of 26 percent. The board approved increases in prescription co-pays only and accepted only nine of the 13 HMO bids. In 1998, 18 bids were submitted and 13

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON FINANCE:**

#### **SUBCOMMITTEE ON ERS AND TRS BENEFIT ISSUES**

accepted. The contracts are for one year, and acceptable HMO bids must not exceed premiums higher than Health Select, the state's self-insurance plan run by Blue Cross-Blue Shield.

#### **Recommendation**

- Consider carefully the potential effects on competition and service before approving additional laws regulating HMOs.

**INTERIM DIGEST  
SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON GRADUATE MEDICAL EDUCATION**

**SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON GRADUATE MEDICAL EDUCATION**

**Charge**

**Evaluate the financial viability and educational effectiveness of graduate medical education (GME) in light of changes in Medicaid, managed care, and other cost factors, including the impact of uncompensated care. This evaluation shall include a review of the role of the state's teaching hospitals in the provision of indigent health care, and the role of GME in addressing health care needs of under-served regions of the state.**

**Recommendations**

- Begin a process to establish consistent guidelines for financial operations, standards of reporting, and accounting definitions relating to GME programs, to be undertaken by the Texas Higher Education Coordinating Board (THECB) in conjunction with other state entities. There should be an emphasis on accurate procedures and accounting methods for GME revenues and expenditures and a central GME financial database should be created.
- Identify possible unreimbursed GME-related costs at children's hospitals. The Texas Department of Health (TDH) should work with representatives of children's hospitals to identify such costs.
- Recommends that the Texas Health and Human Services Commission (HHS), TDH, and THECB work with the Legislative Budget Office (LBO) to identify general revenue appropriated to THECB for GME purposes that could be used as state matching funds for future increases in Medicaid GME costs brought about by federal Medicare amendments.
- Work to maximize Medicaid GME funding for teaching hospitals using currently unmatched general revenue appropriated to THECB for GME purposes, if further increases in GME funding are necessary. If significant resources are identified for transfer to TDH as Medicaid GME state-matching funds, THECB should make recommendations to the legislature regarding the possible consolidation of GME programs and resources entrusted to THECB.

**INTERIM DIGEST**  
**SENATE COMMITTEE ON FINANCE:**  
**SUBCOMMITTEE ON GRADUATE MEDICAL EDUCATION**

- Explore the possibility of augmenting Medicaid GME funding using the certification or recognition of practice plan resources currently expended by state medical schools on GME programs, if there is still a need for additional funding at teaching hospitals.
- Investigate the feasibility of using Inter-Governmental Transfers of local GME-related expenditures as matching funds for Medicaid purposes, if teaching hospital funding needs are identified that cannot be addressed using THECB or practice plan funds.
- Consider fund formula changes for health-related institutions necessary to properly reimburse schools for unreimbursed GME faculty expenses at Texas medical schools.
- Examine recent changes in Medicare policies allowing GME reimbursement of non-hospital-affiliated facilities and evaluate the prospect of incorporating those changes into the Texas Medicaid GME program.
- Examine the possibility of establishing and funding a rural physician recruitment program promoting linkages between high schools, universities, and medical schools.

Establish a workgroup consisting of representatives of Texas medical schools to coordinate and maximize telemedicine resources.



**INTERIM DIGEST  
SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON MAJOR STATE INVESTMENTS**

**SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON MAJOR STATE INVESTMENTS**

Charge

**Examine the policies and practices used to invest major state funds including cash balances, and evaluate state investment goals and the funds' performance in reaching those goals. This examination shall include, but is not limited to, review of legal authority, ethical standards, and investment policies and safeguards, management structure, portfolio composition and identification of short-term and long-term goals. The committee shall make recommendations identifying opportunities for improvements or innovations.**

Background

At the end of fiscal year 1999, investments held by all funds within the State Treasury totaled \$142.9 billion. Four major investment accounts within the State Treasury are responsible for 98.5 percent of these investments: the Teacher Retirement System Fund, the Employees Retirement System Investment Pool, the Permanent School Fund, and the Permanent University Fund. Approximately 57 percent of these funds are invested in corporate stock with the remainder fairly evenly spread between U.S. government investments, corporate obligations, real estate and mortgages, and securities lending collateral.

In addition to these funds, the 76th Legislature also established \$1.995 billion in endowment funds using tobacco settlement proceeds. The vast majority of these tobacco funds are currently managed by two agencies: the Comptroller, and The University of Texas Investment Management Company (UTIMCO).

Interest and investment income deposited to the State Treasury from these investments totaled \$1.69 billion in fiscal year 1999. Of this amount, \$777.2 million, or 46 percent, was earned by the Permanent School Fund and deposited to the credit of the Available School Fund. Another \$265.1 million or 15.7 percent was earned by the Permanent University Fund and deposited to the credit of the Available University Fund. Still another \$134.6 million or 8 percent consisted of General Revenue Fund interest and investment income.

The Senate Finance Subcommittee on Major State Investments held four public hearings to take testimony from the five entities responsible for investment and management of these funds. The Teacher Retirement System (TRS), Employees Retirement System (ERS), UTIMCO, State Board of Education/Texas Education Agency (SBOE/TEA), and Comptroller of Public Accounts each provided information regarding the management

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON FINANCE:**

### **SUBCOMMITTEE ON MAJOR STATE INVESTMENTS**

structure, decision process, investment standards/strategies, reporting requirements, ethical standards, and constitutional/statutory issues.

The committee made recommendations aimed at improving the state's overall investment structure with the ultimate goal of improving the returns earned by these funds.

#### **Recommendations**

- Publish an annual report of the performance on the state's major investment funds. The report should be prepared by the Legislative Budget Board and should:
  - Provide performance comparisons among the funds;
  - Examine performance of similar asset classes and comparable portfolios within classes; and
  - Be published in a format that can be understood without technical investment expertise.
- Establish uniform, minimum ethics guidelines for the management and investment of all state funds.
- Consider a constitutional amendment transferring the authority to manage and invest the Permanent School Fund (PSF) from the State Board of Education to the Texas Education Agency. The fund could be governed by an investment board with appropriate expertise and composed of the following:
  - two members appointed by the governor;
  - one member appointed by the lieutenant governor;
  - one member appointed by the speaker of the house of representatives;
  - one member appointed by the State Board of Education;
  - the Commissioner of Education as an ex-officio member.the Investment Board should have authority to:
  - employ and direct an executive director and staff; and
  - contract with outside managers, as appropriate.
- Consider a Constitutional amendment to allow the Permanent School Fund to be managed as a total return fund.
- Grant the comptroller statutory direction to establish a formal investment advisory board with appropriate expertise to assist in the management of investments in long-term funds held by the comptroller.

**INTERIM DIGEST**  
**SENATE COMMITTEE ON FINANCE:**  
**SUBCOMMITTEE ON MAJOR STATE INVESTMENTS**

- Authorize the Employees Retirement System and Teacher Retirement System to contract with investment consultants and outside money managers.

**INTERIM DIGEST  
SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON TOBACCO SETTLEMENT PROCEEDS**

**SENATE COMMITTEE ON FINANCE:  
SUBCOMMITTEE ON TOBACCO SETTLEMENT PROCEEDS**

Charge

**Review the expenditure by agencies and institutions that received appropriations from tobacco settlement proceeds to ensure the efficient and effective use of those funds, and identify priorities for the use of future tobacco settlement proceeds.**

Background

The state was projected to have approximately \$1.814 billion in tobacco settlement proceeds for expenditure during the 2000-2001 biennium. The 76<sup>th</sup> Legislature placed the majority of these funds into eight permanent funds and 13 higher education endowments. The remainder of the funds was distributed directly to various state entities. The subcommittee found that the state agencies and institutions of higher education that received the above appropriations are using the funds as contemplated by the legislature.

Currently, there are several legal issues that need to be resolved in order to determine the amount of future payments under the tobacco settlement. The Attorney General is currently engaged in discussions with the tobacco companies to settle these matters. There is a shortfall between \$75 million and \$90 million in tobacco settlement proceeds available for expenditure for the 2000-2001 biennium. There are five primary options available for correcting the shortfall: (1) using future tobacco settlement proceeds to compensate for the shortfall, (2) allowing general revenue to compensate for the shortfall, (3) reducing the \$324.1 million in direct program allocations, (4) reducing the \$1.490 billion corpus of the permanent funds and higher education endowments, and (5) recapturing the excess earnings that accumulate on the permanent funds and higher education endowments.

Recommendations

- Compensate for the shortfall in tobacco settlement proceeds before appropriating or otherwise committing future proceeds for any other purpose.

Consider reserving a portion of the estimated amount of biennial tobacco settlement proceeds to reduce the possibility of allocating more than will actually be available.

- Consider continuing to use the first amount of tobacco settlement proceeds that becomes available to the state each fiscal year for the Children's Health Insurance Program.
- Possibly consider funding the following programs with future tobacco settlement payments:

**INTERIM DIGEST**  
**SENATE COMMITTEE ON FINANCE:**  
**SUBCOMMITTEE ON TOBACCO SETTLEMENT PROCEEDS**

Establishing a Public School Teacher Health Care Insurance System to provide state-supported health care insurance for public school teachers.

Increasing the corpus of the Permanent Fund for Tobacco Education and Enforcement to support programs that reduce the use of cigarettes and tobacco products in the state.

Establishing a Veterans' Health Care Fund to be used for the construction of additional veterans' homes, the construction and maintenance of Texas Veterans' Cemeteries, and a grant program administered by the Texas Veterans Commission for local communities involved in veterans' health care.

**SENATE COMMITTEE ON FINANCE  
IMPLEMENTATION OF SENATE BILL 1547**

**Charge**

**Monitor the implementation of S.B. 1547 enacted during the 76<sup>th</sup> Legislature, Regular Session, relating to motor fuel tax collection improvements, especially the impact of the bill on state motor fuel revenue.**

**Background**

S.B. 1547 imposes new reporting requirements on motor fuel wholesalers and common carriers. The act increases the documentation and reporting requirements of gasoline distributors and diesel fuel suppliers, limits the sale of tax-free clear diesel fuel to agricultural users, and requires anyone using a signed statement to purchase tax-free dyed or clear diesel fuel to register with the Texas Comptroller of Public Accounts. Common and contract carriers transporting gasoline or diesel fuel by truck in Texas are also required to register and file reports with the Comptroller (office).

The major controversy of the bill concerned the point of collection of motor fuels taxes. Various interests, including the Texas Petroleum Marketers and Convenience Store Association (TPCA), want the point of collection to remain at the distributor/supplier level, while others, such as the Texas Transportation Commission/Texas Department of Transportation (TxDOT), would like to see it changed to the terminal rack (a terminal or bulk plant operator). Twenty other states and the federal government have moved the point of tax collection to the terminal rack. The legislation went through many drafts and hours of negotiations were held during the session to develop a compromise bill that maintained the point of collection at the distributor/supplier level.

The Texas Transportation Commission, TxDOT's governing board, directs most of the highway spending in Texas. According to the Texas Constitution, three-fourths of motor fuel tax revenue is dedicated to highway-related spending; the other fourth goes into the Available School Fund to support the Foundation School Program. State motor fuel taxes comprise approximately 43 percent of the State Highway Fund, otherwise known as Fund 6. Of course, increased motor fuel tax deposits raise the amount of funds for highway-related use.

## **INTERIM DIGEST SENATE COMMITTEE ON FINANCE**

The first installment of tax reporting data from distributors and suppliers was to be reported to the Comptroller's Office on October 25, 2000. The Comptroller's Office believes it will take several months of reporting under this new system for the data to be able to be cross checked in the tracking system for fraud. The office does not expect to have the ability to perform data discrepancy cross checks on imports and exports of fuel until the end of February 2001.

A conclusion regarding the effectiveness of the changes resulting from S.B. 1547 cannot be reached before the commencement of the 77<sup>th</sup> session.

### **Recommendations**

For the effectiveness of S.B. 1547 to be accurately evaluated in terms of anticipated increase in the collection of motor fuel taxes and whether fraud has been reduced within the system,

- Conduct an analysis of motor fuel tax collections during the interim of the 77th Legislature, to accurately evaluate the effectiveness of S.B. 1547 in terms of anticipated increase in the collection of motor fuel taxes and whether fraud has been reduced in the system.
- Review and identify, as part of the budget process, the amount of motor fuel tax funds the Comptroller of Public Accounts (comptroller) requires to run the motor fuels tax program.

Urge the Senate Finance Committee to make a policy decision as to whether any unused balance, if there is one, should be used by the comptroller to fund other programs or should be transferred to the Highway and Available School Funds.

**SENATE COMMITTEE ON HEALTH SERVICES**

**Charge**

**Evaluate the changes in the Medicaid system since the beginning of Medicaid reform. The committee shall assess reform efforts in light of the original goals for implementation of Medicaid managed care, as well as the impact of Medicaid managed care on patient outcomes, cost implications to the state, and the impact on traditional providers of indigent care. The committee shall also specifically evaluate the ability of Medicaid managed care organizations and the state to manage chronic illnesses and develop specific strategies for disease management for certain populations.**

**Background**

In the era of managed health care, Medicaid programs are increasingly turning to managed care organizations and systems to deliver health care services. According to the U.S. Department of Health and Human Services, 15.3 million Americans enrolled in Medicaid managed care in 1997, up from 2.7 million in 1991. All states except Alaska and Wyoming are pursuing some type of managed care initiative. As of June 1997, nearly 48 percent of the national Medicaid population was enrolled in managed care.

**Recommendations**

- Streamline the reporting requirements of health care providers. The Health and Human Services Commission (HHSC) shall review and make recommendations to require HMOs to submit a quarterly management report, reduce the complexity of administrative forms health care providers are contractually obligated to provide and complete, and identify all unnecessary provider and insurance requirements.
- Coordinate efforts between Texas Department of Insurance (TDI) and HHSC to evaluate eliminating pre-authorization requirements for certain routine services that currently have a high approval rate and work towards developing a standardized preauthorization form.
- Determine the impact of establishing newborn down-coding and utilization review (UR) criteria and make policy recommendations to determine the appropriate utilization review decisions.
- Direct HHSC to assess the impact of creating a statewide outreach and education initiative to improve prenatal care for Medicaid managed care clients.
- Direct HHSC to evaluate the benefits of establishing a centralized claims processing clearinghouse for use in Medicaid managed care and traditional Medicaid programs.



## INTERIM DIGEST

### SENATE COMMITTEE ON HEALTH SERVICES

- Develop standardized, statewide programs for case management and specialty care initiatives by having HHSC coordinate this effort to ensure consistency of knowledge and shared information across state agencies.
- Continue the Primary Care Case Management Program (PCCM) in all existing service areas or other service delivery areas which could benefit from the establishment of a PCCM model.
- Initiate outreach programs to inform qualified providers of their ability to utilize the presumptive eligibility designation for pregnant women.
- Review and study the implementation and effectiveness of the Medicaid managed care system to determine if the State of Texas Access Reform (STAR) program has met its goals. Particular attention will be paid to the NorthStar and Star+PLUS pilot projects.
- Adopt an appropriate definition of “disease management” for Medicaid recipients.
- Develop and implement a targeted pilot project to determine the effectiveness of a disease management program in the reduction of long-term health care costs, improved care, better utilization patterns, and improved coordination of care.
- Monitor disease management outcomes by using an experienced quality measurement entity. Promote patient education and skills development through the treating physician(s) within the appropriate multi-functional disease management team.
- Review the impact of limiting the number of health plans participating in the STAR program within each market, and make appropriate recommendations on the effectiveness of limiting the number of plans within service deliveries across Texas.
- Monitor the feasibility of requiring Medicaid managed care patients to contribute a nominal co-pay, outlined by federal rule, at the time of treatment.
- Assess the current reimbursement rates for subspecialty providers generally considered to be primary care to determine if these providers are reimbursed at an equitable level.

#### Charge

**Inventory and analyze the amount and type of research related to pharmaceuticals, biotechnology, and genetics currently occurring in Texas to maximize the benefits to Texans in these fields. The committee shall also examine the ethical implications associated with pharmaceutical, genetic, and biotechnology research.**

#### Recommendations

## INTERIM DIGEST

### SENATE COMMITTEE ON HEALTH SERVICES

- Require the Legislative Budget Board (LBB) to determine fiscal implication of allowing research and development tax credits to be transferred and sold, whether selling the credits to another corporation or back to the state will provide the greatest benefit to the industry, and coordinate with the comptroller to determine the potential impact on local communities.
- Require the Texas Higher Education Coordinating Board (THECB) to investigate the amount and type of federal research funds available.
- Require THECB to investigate the benefit of establishing State Investment Funds for biotechnology. These funds should be made available to biotechnology startup companies as well as university technology transfer offices, or the departments within universities responsible for filing patents and introducing biotechnology discoveries to the marketplace.
- Clarify definitions of “genetic test” and “genetic information.”
- Improve protections against discrimination based on all medical information, not only genetic information. Consider federal proposals for definitions of medical information and certain Minnesota statutes specific to medical information and employment discrimination.
- Limit the release of genetic information to certain persons and institutions, make genetic information the property of the individual, and require the authorization for disclosure of genetic information (with the exception of criminal matters).
- Prohibit the cloning of an entire human being. This law should include an expiration date. Revoke the registration of any hospital, sperm bank, or ambulatory surgical treatment center that engages in human cloning.
- Promote local government to develop, implement, and exercise integrated bioterrorism response plans which will prepare local systems in the event of an intentional release of a deadly bacterium or virus.
- Dramatically enhance disease detection capacity throughout the state.
- Provide health care professionals with information on the threat of epidemic disease caused by terrorist intent and be prepared to rapidly identify the diseases of concern and to report suspected concerns to the local and state health department.
- Strengthen the ability of the state to prevent and respond to a terrorist attack using chemicals or microbes. Texas should pass laws to establish criminal liability for the unauthorized possession of a restricted microbe or making a threat of using such a microbe.

#### Charge

**Review the type, amount, availability, and use of patient-specific medical information, including prescription data, and current statutory and regulatory**

## **INTERIM DIGEST SENATE COMMITTEE ON HEALTH SERVICES**

**provisions governing its availability. The report shall explore if statutory and regulatory provisions are consistent and adequately enforced.**

### **Recommendations**

- Identify and set forth consistent and appropriate penalties for the unlawful release of information.
- Prohibit pharmaceutical manufacturers from using individually identifiable patient medical data for specific marketing purposes.
- Promote the right of individuals to have their consent on any and all disclosures that are not necessary for treatment or payment of claims.
- Provide individuals with access to their protected health information. Individuals must also have the right to amend or correct incomplete or inaccurate medical record entries.
- Provide corporations and organizations with easily understood notices and disclosures regarding the manner in which they use individual medical data. The notices must include the type of information collected, a description of the use and distribution of that information, options the consumer has to further protect their information, a statement of the organization's commitment to data security, and steps identified or taken by the organization to ensure data quality and access protection.
- Promote the availability of non-identifiable personal medical information for public health research efforts.
  
- Ensure that medical information privacy shall apply regardless of the medium involved.
- Protect employees' medical information from employers so that employers have access only to non-individually identifiable, encrypted forms of medical information.
- Limit mailing health consumer material to patients only after they have received a specific diagnosis code(s) and only after a patient consents to receive such information.
- Adopt a multi-tiered opt-in/opt-out, carefully defining medical privacy and levels of security which includes appropriate privacy and confidentiality protections that protects patients and establishes parameters for legitimate commercial interests that use medical data and information.
- Establish a blue ribbon privacy council that will conduct a thorough evaluation and ongoing review of key issues related to structuring a statewide comprehensive, flexible, and evolving medical privacy policy. The council should recruit a broad spectrum of representatives from key industries, consumers, professional

## **INTERIM DIGEST SENATE COMMITTEE ON HEALTH SERVICES**

organizations, state agencies, and the Legislature to provide input on privacy related matters and ensure that state privacy regulations keep pace with the ever-evolving health care industry.

- Coordinate efforts to maintain federal privacy regulations among the state's agencies and higher education institutions.

### **Charge**

**Study the Vaccinations For Children (VFC) Program. The Committee shall focus on the health and fiscal implications to the public and private sectors of granting choices to physicians where more than one manufacturer produces the same vaccine at an equivalent price.**

### **Recommendations**

- Allow providers participating in the Vaccines for Children (VFC) program choice among all vaccines that are recommended and approved by the Federal Advisory Committee on Immunization Practices and under contract with the Center for Disease Control (CDC). Choices should be offered for different formulations of essentially the same product as well as combinations of individual products.
- Develop and release a Request for Information (RFI) to private entities to assess their ability to assume the vaccine storage and distribution function currently operated by Texas Department of Health (TDH).
- Enhance collaboration with private health care providers, especially managed care organizations, to promote and increase participation in the VFC program. Require that TDH contact Medicaid providers who are not enrolled in the VFC program to promote their enrollment and participation.

### **Charge**

**Assess the preparedness of the Texas health care workforce to meet the health care needs of Texans beyond the year 2000, including methods to retain Texas-trained medical personnel. The committee shall evaluate the availability of health care providers in rural and urban areas. The committee shall also review the oversight of medical procedures performed by medical residents and disclosure provided to patients prior to treatment.**

### **Recommendations**

- Require the Center for Rural Health Initiatives to coordinate with various agencies to assist in evaluating existing telemedicine programs and policy. The Center shall also ensure the appropriate development and use of telecommunications and technology in health care settings.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON HEALTH SERVICES**

- Expand Telecommunication Infrastructure Fund (TIF) eligibility to include for-profit physicians in rural or underserved areas.
- Require the Center for Rural Health Initiatives to develop a uniform definition for telemedicine.
- Direct the LBB to prepare a cost analysis projecting the cost of including pharmacists, occupational therapists, and mental health providers in the list of health professionals eligible to receive Medicaid reimbursement for telemedicine services.
- Modify the state Medicaid code definition of “HUB” site, facilities granted authority to utilize telemedicine, to remove the requirement that the “HUB” must be affiliated with an accredited allopathic or osteopathic medical school. Currently the HUB site must be affiliated with a medical school. This designation has deterred other providers from utilizing telemedicine.
- Create a Rural Investment Program to allow communities, through a newly created state loan repayment stipend program, an opportunity to recruit health care professionals who are willing to locate their practice in rural or underserved communities.

#### **Charge**

**Monitor the implementation of S.B. 445, 76<sup>th</sup> Legislature, Regular Session relating to the Children’s Health Insurance Program (CHIP).**

#### **Recommendations**

- Continue to monitor the progress of CHIP and report back to the 77th Legislature.
- Investigate the benefits of reimbursing for telemedicine services under CHIP and also coordinate with the LBB to determine if the use of telemedicine could result in cost savings to the state. Telemedicine should complement, not replace, the existing health care provider infrastructure.
- Adopt policies to allow families with children in CHIP to pay monthly or annual premiums with cash payment.

**SENATE COMMITTEE ON HUMAN SERVICES**

**Charge**

**Examine the continuum of care and support options available to Texans in need of long-term care. The committee shall evaluate the effectiveness of state regulatory efforts to ensure quality services as well as analyze the long-term care business climate. The committee, working in cooperation with the Senate Finance Committee, shall analyze the current state funding method for Medicaid long-term care and develop alternatives that both ensure quality service and control costs. The committee shall also develop recommendations to ensure individual and family choice in long-term care decisions and encourage more private sector and community involvement in the delivery of long-term care.**

**Recommendations**

- Increase funding for the full range of home and community-based services, including adult day care, home health services, respite services, attendant care, and other services.
- Require agencies to implement procedures to ensure that persons with disabilities, residing in institutions, or at risk of such a placement, have access to information about the full range of care options and assistance in utilizing those options, if they choose to do so.
- Expand housing options for the elderly and persons with disabilities by establishing housing voucher programs at Health and Human Services Commission (HHSC) for those who move from institutional to community care settings.
- Modify the Primary Home Care (PHC) and Frail Elderly programs to allow three medications per month for Frail Elderly program clients, allow greater nurse delegation of tasks to home health aides, and allow presumptive eligibility to speed the initiation of services for new clients.
- Include routine preventive dental services to nursing home residents as basic services under the Texas Medicaid program, contingent upon federal waiver approval.
- Establish a long-term care local access fund, to be administered by HHSC, to support local initiatives to improve access to long-term care services established by S.B. 374.

Prioritize initiatives that utilize Internet technologies to provide information, referral, and assessment for local services.

- Expand statewide Community Alzheimer's Resource and Education (CARE) programs at Department of Human Services (DHS) by adding four additional sites.

***Children***

## INTERIM DIGEST

### SENATE COMMITTEE ON HUMAN SERVICES

- Require health and human service agencies to plan more consistently across agencies and facilities for children in institutions or considering placement in an institution.
- Revise the definition of “abandonment” to include cases where a family has placed a child in an institution, but has no further contact with the child.
- Allow children with special health care needs, who would otherwise qualify for nursing home services, to qualify for Medicaid or equivalent benefits, to allow families to provide home care.
- Direct HHSC to investigate “shared parenting,” “extending-a-family,” and “friends of the family” concepts used in other states’ systems of foster care for children with special health care needs outside of protective and regulatory agencies.
- Establish joint training for health and human services agency caseworkers to increase their awareness and knowledge of the services available to children within their agency and among other agencies.

#### *Regulation*

- Establish a temporary license for facility operators going through the change of ownership process.
- Require DHS to maintain a list of operators with excellent regulatory records to be made available in a change of ownership situation.
- Allow DHS, at the request of a facility owner, to conduct architectural reviews prior to the construction or remodeling of nursing facilities.
- Provide a full range of administrative penalties for use by the state to sanction assisted living facilities that do not meet standards.
- Revamp the criminal history background check process for long-term care employees by expanding the number of employees covered under such requirements and expediting access to background information.
- Add direct care staff employed by home health agencies, Mental Health and Mental Retardation (MHMR), local community mental health and mental retardation centers and other providers, as appropriate, to the list of employers covered by the DHS Employee Misconduct Registry.
- Establish, in statute, guidelines for updated definitions and policies relating to restraints, seclusions, and emergency psychoactive medications in residential facilities (e.g. nursing homes, psychiatric hospitals, Intermediate Care Facility-Mental Retardation (ICF-MR), assisted living centers, and residential childcare facilities).

# INTERIM DIGEST

## SENATE COMMITTEE ON HUMAN SERVICES

### *Financial Issues*

- Establish an advisory committee to develop a plan for dealing with emergency financial crises at institutions, particularly those serving large numbers of children, and address the problem of facilities with recurring violations.
- Allow for-profit nursing facilities to purchase liability insurance from the Joint Underwriting Association (JUA).
- Clarify the appropriate admissibility of DHS survey documents in civil lawsuits against nursing homes.
- Provide tuition assistance for licensed vocational nursing students who agree to practice in long-term care settings.
- Increase funding for nursing home reimbursements.
- Increase funding for DHS audit staff to investigate the financial viability of nursing facilities.
- Direct DHS to evaluate the effectiveness of the new Medicaid nursing facility rate methodology and consider other spending measures to improve residents' quality of care.
- Direct DHS to conduct a new time study/recalculation of the Texas Index for Level of Effort (TILE), or other case-mix system, to better account for varying resource needs of nursing home residents, especially those with dementia.
- Direct HHSC to consider a modeled rate for adult daycare reimbursement with possible inclusion of a case-mix reimbursement.
  
- Enact a state law to require Texas Department of Insurance (TDI) to produce and disseminate a consumer guide to long-term care insurance that includes information regarding the history of prices charged by insurance companies for long-term care insurance.
- Provide a franchise tax credit for employers that contribute to long-term care insurance for their employees, employees' spouses or parents, equal to 20 percent of the costs incurred by the employer, with a maximum credit of \$5,000 or \$100 for each employee covered by the plan, whichever is lower.

### Charge

**Evaluate services provided to hardest-to-serve adult welfare recipients and services provided to children receiving welfare. The committee shall assess the state's ability to avoid long-term dependency on welfare for both of these populations and develop**



## INTERIM DIGEST SENATE COMMITTEE ON HUMAN SERVICES

**additional strategies to encourage self-sufficiency and movement from welfare to work.**

### Recommendations

- Direct DHS, in conjunction with imposing any family-related sanction in the Temporary Assistance for Need Families (TANF) program, to investigate why a family is being sanctioned, determine what resources could assist the family in meeting these requirements, make appropriate referrals, and follow up with local support services. Recommend that the Legislature direct DHS to develop a service strategy, to be implemented at the local level, for addressing the needs of children in TANF families.
  
- Adopt 12-month continuous eligibility for children’s Medicaid.
  
- Direct DHS to:
  - eliminate face-to-face interview requirements, allow mail-in eligibility or telephone recertification, and eliminate the assets test for children’s Medicaid eligibility.
  
  - form an office standards workgroup (including legislative staff, advocates, service providers and stakeholders) to improve TANF, Medicaid and Food Stamps eligibility, application, and review processes at DHS by reviewing client communication; establishing uniform standards across DHS regions; reviewing Food Stamp error rate reduction measures; developing comprehensive performance measures; exploring the use of extended hours based on regional needs; and reviewing TANF policy for counting resources.
  
  - allow phone-in-recertification for Food Stamp clients who are working or in job training, and to require only one face-to-face DHS office interview annually for those clients.
  
  - implement a new screening/assessment process, based on a review of best practices, to help identify clients with highest level of need and barriers to work. The screening/assessment process is to be used to improve case management, referral to community-based services and to help local workforce contractors design appropriate employability plans and support services.
  
  - develop a plan to roll out the Employment Retention and Advancement (ERA) pilot project to all regions over a seven-year period. The statewide roll-out of this project should occur only if the data collected from the current sites indicate a positive effect on the employment outcomes of current and former TANF recipients served by this project.
  
- Revise the TANF vehicle resource limit to exclude the value of one vehicle when determining a family’s assets, define “TANF related” services or programs, such as resource and referral services, and allow families, exceeding the vehicle resource limit, to qualify for Food Stamps under expanded federal “categorical eligibility” rules. If federal legislation is enacted that gives states the option to exclude the value of one vehicle for the purposes of the Food Stamp asset test for all Food Stamp recipients, the committee recommends that the state exercise that option.

## INTERIM DIGEST

### SENATE COMMITTEE ON HUMAN SERVICES

- Direct HHSC, DHS, and Texas Workforce Commission (TWC) to define federal time-limit hardship exemptions that adequately address circumstances and barriers some clients may face exiting TANF.
- Direct DHS and TWC to:
  - develop a cross-agency plan, especially at the local level, for identifying and addressing the barriers to work among the hardest-to-serve clients.
  - implement effective case management tools for identifying hardest-to-serve clients.
- Require that local welfare staff have a minimum of four hours training about domestic violence and its impact on the ability of TANF clients to meet requirements.
  
- Direct TWC to:
  - develop a “Choices” incentive program that encourages placement of TANF clients in higher wage jobs by local workforce board contractors.
  - develop program guidelines for local workforce boards on post-employment services that recognize the difficulty many working clients will have in acquiring additional education and training once they are employed. Encourage local workforce boards to provide post-employment case management for the hardest-to-serve clients.
- Require the state to recognize nonresidential family violence centers and to authorize their funding with state appropriations to DHS for the Family Violence program.

#### Charge

**Monitor federal developments related to long-term care and welfare issues. In the event that significant developments occur, the committee shall evaluate their impact on Texas.**

#### Recommendations

- Utilize the “Promoting Independence” plan to direct consumers from institutional to community placements.
- Utilize TANF maintenance-of-efforts (MOE) funds for assistance and services to two-parent families.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON HUMAN SERVICES**

- Impose a greater penalty for noncompliance with the child support program for families of seven or more for single-parent households, and families of six or more for two-parent households.
- Allow TANF/Food Stamp clients with nontrafficking drug felonies who have completed any sentencing, are in compliance with parole/probation, and are participating in or have completed a substance abuse treatment program, to receive assistance. Institute a law that limits how many times such clients may access benefits.
- Define “allowable work activities” for TANF recipients.

## INTERIM DIGEST

### SENATE COMMITTEE ON HUMAN SERVICES

- Require all adults receiving cash assistance to participate in work activities within 24 months. For those clients with significant and continuing barriers to work, DHS and TWC are directed to design activities to overcome those barriers. If barriers to work persist, assistance should be continued for those unable to work within the 24-month deadline.
- Increase the supply of quality childcare for current and former TANF clients, as related to infant care, weekends, shift hour and other services.
- Expand transitional supports for those leaving welfare to work to include ongoing educational opportunities, job coaching, emergency assistance, transportation assistance, housing-related supports, health care, better access to childcare that meets work hours, and other supports.
- Continue to provide an additional six months of transitional Medicaid benefits to exempt Choices volunteers.

#### Charge

**Monitor the implementation of the following bills enacted in the 76<sup>th</sup> Legislature, Regular Session: S.B. 30, relating to parental notification before an abortion may be performed on a minor; S.B. 374, relating to the provision of certain long-term care services, to the continuation and functions of the Texas Department on Aging, and to the eventual consolidation of the DHS and the Texas Department on Aging into a new agency on aging and disability services; and H.B. 2641, relating to the continuation and functions of HHSC. The committee shall also monitor the effects of the additional resources provided to the Department of Protective and Regulatory Services (DPRS).**

#### Recommendations

- Require HHSC to submit advance copies of official submissions to the federal government, including waiver application submissions and state plan amendments, to the Senate Human Services, Senate Health Services, House Human Services, and House Public Health Committees.
- Support efforts to transition children from the foster care system by amending the state plan to allow health care funding options for foster children under age 21.
- Increase the subsidy given to families who adopt children with special needs to remove the disincentives to adopt these children.
- Direct DPRS childcare licensing staff to increase unannounced inspections of child care facilities designated as high risk.
- Include registered drop-in day care centers in the training requirement for childcare providers.

## INTERIM DIGEST

### SENATE COMMITTEE ON HUMAN SERVICES

- Direct DPRS to amend agency rules to add child abuse prevention information to the posters displayed at business organizations providing childcare.
- Expand the authority for DPRS to obtain criminal background information on certain applicants, employees, volunteers, or persons living in an adoptive or foster home, where a child in Child Protective Services (CPS) conservatorship will reside.
- Require appropriate institutions of higher education and state agencies to report to the Legislature and HHSC on efforts to serve children ages zero to three and make recommendations to enhance coordination and collaboration.
- Direct DPRS and the Children's Trust Fund (CTF) to develop and implement an infant mortality prevention education program throughout the state using persons and organizations with specific experience, such as the Child Fatality Review Teams or the Sudden Infant Death Syndrome (SIDS) Alliance.
- Direct the Texas Education Agency (TEA) to amend current rules requiring teachers to report child abuse and neglect by adding a requirement to inform teachers about how to recognize child abuse or neglect.
- Direct DPRS prevention division and the State Board of Education to collaborate to include child abuse prevention and awareness information in the state's education curriculum for students.
- Establish a statewide DPRS respite care program based on the respite care pilot.
- Increase funding for DPRS:
  - to expand DPRS home visiting services and offer a menu of programs based on identified community need and support.
  - for drug testing of certain clients.

**SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS**

**Charge**

**Evaluate the potential benefits offered through the “design-build” form of bidding, which allows engineers, architects, and builders to form teams and bid on state projects in contrast to the current method which requires each entity to bid separately. The committee shall compare Texas’ practices to those of other states as well as to the private sector, and evaluate the “design-build” option for buildings, roads, and other publicly funded projects.**

**Background**

The structure of a design-build contract allows a single contract for design and construction as contrasted with the traditional method, which uses separate contracts. This allows either a firm or a joint venture to contract with the owner or agency and provide single source accountability. According to owners who have used the design-build method, this single source accountability is a factor in choosing it over the traditional method. Currently, the only public entities in Texas that have design-build as an option are school districts and institutes of higher education. Per the parameters set by Lieutenant Governor Perry, design-build is being considered for only two separate state agencies, the Texas Department of Transportation (TxDOT) and the Texas Department of Criminal Justice (TDCJ).

**Recommendations**

- Authorize the Texas Department of Transportation (TxDOT) and the Texas Turnpike Authority (TTA) to enter into design-build contracts under a pilot program.
- Authorize the Texas Department of Criminal Justice (TDJC) to enter into design-build contracts.

**Charge**

**Study the funding and expenditures of Councils of Government (COGs) and examine the changing relationship between COGs and the state and federal government since 1982. The committee shall monitor the compliance by COGs regarding publication of financial statements, as referenced in the General Appropriations Bill, H.B. 1, 76<sup>th</sup> Legislature, Regular Session.**

**Background**

Councils of Governments (COGs), also known as “regional planning commissions,” are voluntary associations of local governments and other affiliated organizations, which perform comprehensive regional planning and mapping. COGs are also active in

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS**

coordination of community development and social programs for aging, criminal justice, employment and training, economic development, environmental resources, transportation, and workforce development. Created under Chapter 391 of the Local Government Code, COGs are defined by law as political subdivisions of the state. They have no regulatory power or other authority possessed by cities, counties or other local governments, but they are subject to state laws governing open meetings, access to public records, and conduct of public officials. Each COG operates under its own bylaws and its governing body must consist of at least two-thirds locally elected officials of cities and counties. The policy-making bodies in most COGs include the general assembly and the board of directors. In response to concerns about the fiscal accountability of COGs, several bills were passed in the 76<sup>th</sup> Legislature relating to salary schedules, restrictions on travel costs, certain reporting and accounting requirements, restrictions on commission costs, and restrictions on employment.

#### **Recommendations**

- Require the State Auditor's Office to fully review COGs' financial audits.
- Request both the State Auditor's Office and the Governor's Office to work towards developing a more simplified reporting process for COGs, detailing what specific items need to be reported and to which entities.
- Amend Chapter 391 of the Local Government Code to strengthen state and regional coordination of planning and program development.
- Amend Section 391.006(b) of the Local Government Code, to encourage and facilitate participation by members of the public.
- Require the State Comptroller's Office to evaluate and report back to the committee any concerns regarding the current invoice and payment procedures between COGs, state agencies, and service providers.

# INTERIM DIGEST

## SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

### Charge

**Review the statutory authority granted to local governments to regulate the development of residential subdivisions. The committee shall identify conflicting provisions and make recommendations to clarify existing statutes.**

### Background

Municipal and county authority over subdivisions is established primarily by Chapters 212, 232, and 242 of the Local Government Code. Chapter 212 governs the subdivision authority of cities. Chapter 232 governs the subdivision authority of counties. Chapter 242 defines how city and county authorities interact in geographical areas where both the city and county exercise jurisdiction. Currently, counties do not have ordinance-making authority to control growth and progress within unincorporated areas, relating to land-use planning, water quality, and building and construction standards.

### Recommendations

- Provide counties, on a local option basis and after a referendum of their citizens, the authority for (A) land-use planning, (B) limited construction and/or building codes (basic protection from hazards of fire, windstorm and substandard construction), and (C) water quality protection.
- Implement comprehensible guidelines in the extra territorial jurisdiction (ETJ) where city and county authorities may conflict.
- Maintain the language of all Local Government Code sections dealing with municipalities' authority to protect their citizens.

### Charge

**Monitor the implementation of S.B. 89, 76<sup>th</sup> Legislature, Regular Session relating to municipal annexation.**

### Background

S.B. 89 enabled residents of outlying areas to retain a certain degree of local autonomy, while allowing municipalities to plan and direct their growth. S.B. 89 balances cities' need for expansion with the need to preserve the rights of those that are annexed.

### Recommendations

- Continue to monitor the implementation of S.B. 89, 76<sup>th</sup> Legislature, Regular Session, relating to municipal annexation.



## **INTERIM DIGEST**

### **SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS**

- Provide a clear definition of “tract of land” and provide direction on how to account for tracts that are either vacant or are occupied by one or more residential dwellings.

#### **Charge**

**Examine the powers, functions and programs administered by the Texas Department of Housing and Community Affairs (TDHCA) and the Texas State Affordable Housing Corporation (TSAHC). The committee’s report will assess the methodology used in allocating the various housing funds and resources, including the Low-Income Housing Tax Credit Program and the Housing Trust Fund, and the compliance by that agency with the methodology. The report will address whether the programs administered by TDHCA and TSAHC meet the affordable housing demands of targeted population groups throughout the State of Texas.**

#### **Background**

In 1991, TDHCA was created after the merger of the Texas Housing Agency, the Community Development Block Grant Program from the Texas Department of Commerce, and the Texas Department of Community Affairs. Since then, several programs have been transferred to the department from the Texas Department of Human Services and the Texas Department of Licensing and Regulation.

#### **Recommendations**

- Require TDHCA to immediately classify preservation as a top priority and begin undertaking, through any and all possible means, accelerated attempts to preserve housing stock.
- Require TDHCA to collect from participating jurisdictions, entitlement communities, and other local organizations, any housing plans submitted to the U.S. Department of Housing and Urban Development (HUD) and information on funding received from HUD for activities which the department also offers.

## INTERIM DIGEST

### SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

- Require TDHCA to adopt a policy to work in conjunction with United States Department of Agriculture Rural Development, Community Development Corporations (CDCs), participating jurisdictions, Housing Finance Corporations, Texas State Affordable Housing Corporation, and other providers of housing related programs to reduce overlap of expenditures and to maximize housing resources.
- Require TDHCA to:
  - work with the 24 COGs in the state to distribute program information to local communities.
  - give priority to applications for the Home Investment Partnership Program (HOME) funds from non-participating jurisdictions as required by the department's governing rules.
  - adopt policies regarding the use of de-obligated funds and program income, specifically the process by which they are allocated and reporting requirements regarding their use.
  - create a single application for the Housing Trust Fund, Community Development Block Grant funds, HOME funds and the Mortgage Revenue Bond Program.
  - monitor and strictly enforce all fair housing laws.
- Concur with the recommendations voted on by the Sunset Advisory Commission as of September 1, 2000.

**SENATE COMMITTEE ON JURISPRUDENCE**

**Charge**

**Review Chapter 153 of the Family Code to identify ways to improve the enforcement of child custody orders and study alternative methods of enforcement in order to improve court time efficiency and expedite the process.**

**Recommendations**

- Increase the amount of judicial education relating to child custody and child support enforcement issues, either through continuing legal education courses or specific courses for judges. Specific courses should be implemented that target judges who do not exclusively hear family law cases.
- Require a notice in all divorce decrees, child custody orders, and modifications that a non-custodial parent has the right to modify a child custody order if there is a change in circumstances. Such language should be clear and conspicuous and fully inform litigants of their *right* to modification in the event of a change in circumstances. In addition, all forms used by the Office of the Attorney General (OAG) should contain a notice of the right to modify a child custody decree if there is a change in circumstances.
- Urge judges and family law courts to increase the use of alternative dispute resolution (ADR) and mediation in solving child custody disputes.
- Provide clear statutory authority for judges to order parental counseling and cooperative parenting courses as a condition for obtaining or retaining custody of a child or modifying custody, visitation, and support orders.
- Urge the courts to increase the use of suspension of professional and driver's licenses for the failure to comply with court-ordered custody and visitation.
- Increase the time of license suspension from the standard 30-day suspension.
- Create a pilot project that provides parents and litigants better access to the courts for the enforcement of violations of child custody and possession orders. In creating the pilot project, particular attention should be given to opening courts at non-traditional hours and encouraging associate and visiting associate judges to hear more civil contempt cases.
- Establish a pilot project in the OAG to encourage the OAG to enforce child custody possession orders.
- Standardize court forms regarding child support, possession, and custody for *pro se* litigants. The forms should contain clear and conspicuous language so that it is easy for *pro se* litigants to fully understand their rights and responsibilities.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON JURISPRUDENCE**

- Urge counties, in coordination with existing ADR centers and domestic relations offices, to look at developing a secure environment that would allow for the safe exchange of children during visitation with non-custodial parents, especially in instances where domestic violence has occurred.

#### **Charge**

**Monitor the implementation of S.B. 368, 76<sup>th</sup> Legislature, Regular Session, relating to court-ordered child support, including the child support enforcement function of the OAG, and the sunset review of those functions and the implementation of the child support enforcement provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 within the established time requirements.**

#### **Recommendations**

- Urge the appropriate state agencies to study the issue of using private collection agencies to supplement the work of the OAG in the collection of child support payments.
- Study the issue of moving the child support collection function from the OAG to another state agency or creating a new agency solely responsible for collecting child support.
- Require the OAG to increase its outreach and education programs relating to child support enforcement. Parents who are engaged in child support cases should be fully informed about the legal process, the impact of parental disputes on minor children, the rights and responsibilities of litigants involving child support cases, and the ability to modify child support orders.
- Amend Section 154.182 (Health Insurance), Family Code, to address changes due to the implementation of the Children's Health Insurance Program (CHIP) and the closing of the Texas Healthy Kid's Corporation. Remove the reference to the Texas Healthy Kid's Corporation and replace it with a general provision that would cover any insurance program available to custodial parents for the support of their children.

**SENATE COMMITTEE ON NATURAL RESOURCES:  
THE CHALLENGE OF MEETING FEDERAL AIR QUALITY STANDARDS**

**Charge**

**Study the challenges Texas faces in meeting federal air quality standards under the Clean Air Act, and the implications of non-attainment on future economic growth. The committee shall assess the impact that federal vehicle, fuel, engine, aircraft, and other standards have on the state's ability to meet the Clean Air Act requirements. The committee shall also study the connection between air quality and such related issues as transportation conformity and funding.**

**Background**

The Federal Clean Air Act (CAA) directs the Environmental Protection Agency (EPA) to establish national standards for commonly occurring air pollutants harmful to public health and the environment. These National Ambient Air Quality Standards (NAAQS) represent maximum acceptable concentrations of six specific pollutants, or "criteria pollutants:" ground-level ozone (smog); particulate matter; lead; nitrogen dioxide; sulfur dioxide; and carbon monoxide. EPA may designate areas that fail to meet the air quality standards as "nonattainment areas," and require the state to develop a formal plan to improve air quality. This state implementation plan, or SIP, sets forth the technical and regulatory process for demonstrating and maintaining air quality compliance. The Texas Natural Resource Conservation Commission (TNRCC) is in charge of developing the SIP and SIP revisions for our state. Regional SIPs such as the Houston-SIP or DFW-SIP are part of one comprehensive SIP for Texas. EPA may impose sanctions for an inadequate or improperly implemented SIP, which would risk economic hardship to the area concerned. The agency may require a two-to-one industrial growth offset for new or modified stationary sources of air pollution, or cut off federal funding for highway projects.

Texas is primarily concerned with ground-level ozone which is formed when volatile organic compounds (VOCs), both natural and man-made, react with nitrogen oxides (NO<sub>x</sub>) in the presence of sunlight. The peak ozone period falls during daylight savings time, between April and May.

The current EPA standard for ozone is based on the average of readings taken from monitors situated throughout the state over one-hour time periods. An area violates this standard when the highest one-hour reading of the day at any one monitor equals or exceeds 125 parts per billion (ppb) more than three times during any consecutive three-year period. In 1991, EPA designated four areas in Texas as nonattainment with regard to the one-hour standard: Houston-Galveston-Brazoria; Dallas-Fort Worth; Beaumont-Port Arthur; and El Paso.

In July 1997, EPA adopted a new air quality standard for ozone based on the average value of readings taken over eight-hour periods. An area violates this standard when the three-year average of the fourth-highest daily maximum eight-hour ozone concentrations equals or exceeds 85 ppb. The following six areas in Texas have exceeded the eight-hour standard and are expected to be designated nonattainment: Austin, Beaumont-Port Arthur; Dallas-Fort Worth; Houston-Galveston-Brazoria; Longview-Tyler; and San Antonio. However, EPA's authority to enforce the new standard has been challenged in

## INTERIM DIGEST

### SENATE COMMITTEE ON NATURAL RESOURCES

federal court and the case is now under consideration by the U.S. Supreme Court. Nonattainment designations for areas exceeding the eight-hour standard have not been released, but are expected sometime in 2001.

#### Recommendations

##### *Environmental Protection Agency*

- More expeditiously promulgate fuel and equipment standards that are scientifically and economically justified.
- Extend the federal ambient air quality attainment dates until the benefits of federal controls have been realized for areas demonstrating they would comply in a timely manner were it not for excess emissions produced by pollution sources under federal control. Such sources are gasoline and diesel engines, aircraft, marine vessels, and railroad locomotives.
- Address issues regarding interstate and international trucking including engine standards, cleaner fuels, and truck inspection and maintenance.
- Allow an objective representative of the scientific community, such as the National Academy of Sciences, to approve any new air quality standards or establish guidelines for the use of epidemiological evidence in creating environmental compliance standards.
- Allow states more autonomy in resolving local air quality issues, with EPA assuming an advisory and resource role.

Give full authority to borderline areas, both those nearing nonattainment and those just over the standards, to address their local problems without being subjected to the rigors of SIP revision and the 20-year maintenance period once attainment is reached.

##### *State*

- Pass a resolution calling for the federal government to reduce emissions from pollution sources under its control by the same percentage and same schedule that Texas is reducing emissions from the sources under state control.
- Establish an incentive fund for cleaner vehicles and equipment (similar to the Carl Moyer program in California) to cover the incremental cost, on a competitive basis, of on- and off-road mobile pollution control projects achieving the most cost-effective NOx reductions.

## INTERIM DIGEST

### SENATE COMMITTEE ON NATURAL RESOURCES

- Establish an incentive program to pursue SIP credits and to provide funding for energy conservation and efficiency.
- Allow successful incentive programs to be alternatives to proposed pollution-reduction programs such as:
  - construction equipment restrictions;
  - local engine retrofit requirements;
  - lawn service equipment operating restrictions (which can continue as voluntary ozone action day items); and
  - reduced speed limits.
- Allow the Public Utilities Commission (PUC) or TNRCC to establish building code standards that promote electricity conservation.
- Consider shifting the beginning of school until after Labor Day for school districts in nonattainment and near-nonattainment areas of the state in order to reduce mobile source emissions and conserve energy during the hottest part of the year.
- Establish a comprehensive cap and trade program for pollutants of regional concern, such as nitrogen oxides and sulfur dioxide, to fulfill all state, and to the extent possible, federal emission requirements.

Structure this program like the cap and trade program required under S.B. 7, keeping in mind EPA may require individual nonattainment areas to be established as separate trading regions.

Expand S.B. 7 to comply with this recommendation because the control requirements of S.B. 7 have been largely superceded by SIP requirements.

# INTERIM DIGEST

## SENATE COMMITTEE ON NATURAL RESOURCES

### SENATE COMMITTEE ON NATURAL RESOURCES: THE ECONOMIC IMPACT OF PORT REGIONALIZATION AND EXPANSION

#### Charge

Examine issues related to port expansion and growth, including the implementation of S.B. 1665, 76<sup>th</sup> Legislature, relating to the authority of certain navigation districts to acquire land, equipment or improvements, and issue bonds. The committee shall study the potential economic impact of losing cargo to other states due to inadequate port infrastructure. The committee shall examine the statutory and constitutional powers granted to those political subdivisions with jurisdiction over ports and which are organized pursuant to Article 16, Section 50 of the Texas Constitution. The committee shall determine how regional port cooperation might assist in easing congestion at current ports and cargo exchange terminals. The committee shall measure the success of other state, national or international efforts to regionalize port planning and expansion.

#### Background

Twenty percent of the total tonnage of goods flowing through all U.S. ports moves through Texas ports, ranking it second only to Louisiana. Texas ports present an enormous economic opportunity for the State of Texas, with total domestic waterborne commerce each year amounting to nearly 129 million tons, worth over \$34 billion. Texas has a great number of major ports, which are operated by independent administrative authorities.

#### Recommendations

The passage of S.B. 1665, has resulted in a heightened awareness and concern for port regionalization and growth. All trends indicate that containerized cargo will increase as a percentage of the marine commerce handled by all ports, including Texas ports. Testimony heard by the committee indicates other states have been spending more public dollars on port facility improvements than Texas. Any state policy changes regarding the level of state funding for port facilities should be considered as part of the Texas Department of Transportation's (TxDOT) Statewide Transportation Plan. The committee does not recommend any statutory changes at this time with regard to the economic impact of port expansion and growth. The committee also wants to monitor any design-build changes from the Senate Committee on Intergovernmental Relations before expanding to include ports.

The committee recommends the following:

- Continue to monitor the state and local funding mechanisms for ports as part of TxDOT's Statewide Transportation Plan, including the use of the results of the Maritime Intermodal Impediments Research Project.\*



## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

- Encourage TxDOT's Port Authority Advisory Committee to further study how design-build authority should be extended to Texas public ports and what, if any, limits should be placed on such authority for ports.
- Further study the use of barging to transport materials northward as an alternative to trucking along the NAFTA corridors.
- Continue to monitor the economic impact of port expansion and growth in Texas, with a particular focus toward megaship and megaport trends, especially as more research on these trends becomes available.

\* Refers to a study made by the Texas Transportation Institute's Center for Ports and Waterways of Texas A&M University to identify current and future port access needs.

# **INTERIM DIGEST**

## **SENATE COMMITTEE ON NATURAL RESOURCES**

### **SENATE COMMITTEE ON NATURAL RESOURCES: FUTURE OF THE OIL AND NATURAL GAS PRODUCTION INDUSTRY**

#### **Charge**

**Evaluate the future of the Texas oil and natural gas production industry. The committee shall identify existing impediments to exploration and production, and examine whether incentives should be offered to help Texas producers capitalize on the expected increase in natural gas demand in coming years. The committee shall also analyze the effectiveness of the well plugging and remediation program of the Texas Railroad Commission.**

#### **Background**

The oil and gas industry and Texas continue to be inextricably linked. Due to the Clean Air Act Amendments of 1990, natural gas demand for electric generation and other uses will continue to be high for the foreseeable future. Crude oil, though much more vulnerable to world-wide market influences, will also continue to be in demand. Though the Texas economy has diversified over the last 15 years, the most current data show the contribution of the oil and gas industry to the Texas Gross State Product approximately three times the electronics industry and five times the agriculture industry.

Oil and gas prices are currently high, but both are commodities and subject to price fluctuations beyond the control of Texas producers. Since oil can be transported by tanker to the United States at a reasonable cost, the price and volume of available oil is subject to world market influences. Natural gas, however, is a North American product that is supplied from the Outer Continental Shelf (30%), Texas (26%), and Canada (30%). The National Petroleum Council forecasts United States demand for natural gas to remain high through 2010.

As to the problem of well plugging and remediation by the Texas Railroad Commission (RRC), much has been accomplished during the past year. After discussion with stakeholders, RRC has issued new W-1X plugging regulations addressing the problems cited in these areas. Sunset Advisory Commission review of the RRC will be before the Texas Legislature in 2001.

#### **Recommendations**

The well plugging program has been frequently used as a tool to delay and ultimately shift the burden of plugging these wells to the state rather than as a temporary way to ride out the vagaries of world price swings. The new W-1X rules, innovative partnerships with other state agencies, and more money allocated to the well plugging program will not only clean up abandoned sites, but will also curb the increasing tide of abandoned oil and gas wells. Recommendations for the legislature include:

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

- Proportionately reduce the oil and gas severance tax with the increase of capital investments above historic levels.
- Expand a safe and reliable pipeline infrastructure.
- Increase research and development targeted to support oil and gas exploration and production.
- Increase the availability of electronic information from RRC.
- Allow RRC to utilize the Texas Water Development Board's Clean Water State Revolving Fund to plug oil and gas wells that pose a threat to both surface water and groundwater.
- Strengthen RRC's Oilfield Cleanup Program by providing additional funding, enhanced enforcement capabilities, and monitoring of non-producing wells.

# **INTERIM DIGEST**

## **SENATE COMMITTEE ON NATURAL RESOURCES**

### **SENATE COMMITTEE ON NATURAL RESOURCES: IMPLEMENTATION OF S.B. 7 AND S.B. 766**

#### **Charge**

Monitor the implementation of the following bills enacted during the 76<sup>th</sup> Legislature, Regular Session: H.B. 2 relating to agriculture and state agriculture policy, and S.B. 766 relating to the issuance of certain permits for the emission of air contaminants. The committee shall also assess, monitor, and report on the qualitative and quantitative impacts resulting from the environmental provisions of S.B. 7, 76<sup>th</sup> Legislature, relating to electric utility restructuring and to the powers and duties of the Public Utility Commission, Office of the Public Utility Counsel, and Texas Natural Resource Conservation Commission.

#### **Background**

The 76<sup>th</sup> Legislature enacted two major pieces of legislation that addressed air quality in the State of Texas. S.B. 7, the Electric Utility Restructuring Act, established a mandatory permitting system for electric generating facilities, mandated goals for the increased use of renewable sources of energy, and created a mechanism for electric utilities to recover certain environmental costs. S.B. 766 established the Voluntary Emission Reduction Permit (VERP) program for other types of grandfathered facilities. It also made refinements to existing Texas Natural Resource Conservation Commission (TNRCC) permitting programs, established TNRCC authority to set a *de minimis* standard, authorized TNRCC to issue standard permits and multiple plant permits, and modified the air emission fee as it applied to grandfathered facilities.

#### **Recommendation**

No recommendations were made.

**SENATE COMMITTEE ON NATURAL RESOURCES:  
MISSIONS AND ROLES OF RIVER AUTHORITIES**

**Charge**

**Review the missions and roles of all Texas river authorities, including their powers and duties, financing, fee structures, service areas, board composition, relationships with other river authorities, competition with private sector service providers, communities they serve, and roles in and contributions to the state's water plan.**

**Background**

River authorities in Texas are established individually by the legislature and have varying powers and duties, depending upon their particular enabling statutes. Generally, river authorities function to regulate water supply and distribution, water quality, and flood control. Some may have taxing authority, while others may have the authority to generate and sell electric power, or regulate navigation.

The boundaries of river authorities are determined by their enabling statutes, but generally they encompass the river basin, the drainage area of a river system. Their importance in maintaining water supply and water quality ties into the current legislative focus on water conservation and management policy. S.B. 1, passed by the 75<sup>th</sup> Legislature, laid the framework for a comprehensive statewide water policy. In particular, S.B. 1 established 16 Regional Water Planning Groups for Texas, each charged with developing its own plan to conserve water supplies, meet future water needs, and to respond to future droughts. The bill also contained provisions relating to interbasin transfers of surface water, specifically, making any such transfer of water rights junior to all other water rights in the basin of origin. The Senate Natural Resources Committee's report analyzes river authorities in the context of these legislative policies.

**Recommendations**

- Codify all existing river authority enabling statutes into a new title or chapter of the Texas Water Code.
- Repeal current statutory limitations on interbasin transfers.
- Provide for a statewide funding mechanism to finance new water supply projects and/or water pipeline or other conveyance projects recommended by the regional water plans.
  
- Provide clear statutory authority to develop and utilize groundwater conjunctively with surface water to help meet the raw water needs of the river authority's service area.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

- Authorize and encourage river authorities to establish development funds allowing them to develop water supplies to be on hand for future water needs, without specific paying customers under contract at the time of development.
- Make certain general powers and duties permissively available for all river authorities.
- Provide for an enhanced level of state review or oversight for all river authorities. Also, establish a schedule for review by identifying which river authorities (or categories of river authorities) would be sequenced for review over the next five biennia.
- Provide for specific legislative amendments as requested by individual river authorities to their own enabling statutes.

**SENATE COMMITTEE ON NATURAL RESOURCES:  
OPPORTUNITIES AND CHALLENGES FACING THE TEXAS COASTAL REGION**

**Charge**

**Identify and characterize opportunities and challenges facing the Texas coastal region, recognizing that the region will experience significant population growth and economic development within the foreseeable future. The committee shall recommend strategies to ensure progress in the coastal region without diminishing the quality of life and natural resources within the region.**

**Background**

Texas has a 367-mile coastline bordering the Gulf of Mexico with a total shoreline, including islands and bays, of approximately 3000 miles. It is the most biologically rich and ecologically diverse region, with the state's jurisdiction extending three leagues (10.3 miles) offshore. Of the estimated 20 million people living in Texas, slightly over 25 percent live within the 18-county coastal region. In the next ten years this population is estimated to increase more than 13 percent to a population of more than 5.8 million.

The committee's public hearings identified challenges in the following areas: coastal erosion; freshwater inflows; loss of coastal habitat; fishery management, both by state and federal regulators; restricted marine aquatic areas to protect sea grass; consideration of long-term impacts of traditional activities along the coast such as trawling, beach use, and residential construction and development; and the long-term sustainability for Texas' shrimp industry and other marine resources.

With regard to opportunities, state agencies were invited to present testimony on the responsibilities and resources they possess to support state and local entities in dealing with coastal area challenges. These agencies included the Texas Natural Resource Conservation Commission, the General Land Office, the Texas Parks and Wildlife Department (TPWD), along with the Governor's Division of Emergency Management and the Texas Sea Grant College Program.

**Recommendations**

- Recognize the Coastal Coordination Council as the state entity that provides focus for coastal issues. In this regard, monitor the implementation of the recommendations of the Sunset Advisory Commission that is currently reviewing the Council and has made proposals to remedy issues identified.
  
- Continue to work with the state's Congressional Delegation to enhance the states' share of revenue from oil and gas activities on the Outer Continental Shelf (OCS), and the Conservation and Reinvestment Act (CARA) to be spent on coastal issues.
  
- Provide resources to fulfill the requirements under the state's emergency management provisions within the Government Code to enhance the hazard

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

vulnerability analysis and emergency planning processes undertaken by political subdivisions.

- By focusing on the Texas Sea Grant College Program, integrate the assets of the state's higher education resources into planning, coordination, and research efforts on coastal challenges and opportunities.
- Establish a systematic review by the legislature of the resources applied to coastal issues through the administration of state development grants, impact mitigation funds, and research and outreach education programs.
- Establish a pay-as-you-go system for Emergency Analysis and Agriculture Extension service to small counties.
- Monitor TPWD's "coast-wide" study of the shrimp industry intended to determine the economic and biological impacts of their new regulations. Use this information to develop long-term sustainability plans for shrimp and other resources to avoid, if possible, future discords between industry and conservationists.



**SENATE COMMITTEE ON NATURAL RESOURCES:  
STORAGE AND DISPOSAL OPTIONS FOR LOW-LEVEL RADIOACTIVE WASTE**

**Charge**

**Study the necessity for storage and disposal options for low-level radioactive waste. The committee shall examine Texas' obligations under the Texas-Maine-Vermont Low-Level Radioactive Waste Compact, the status of other federally formed compacts, the practicality of assured isolation facilities, the feasibility of underground disposal operations, and the viability of public-private ventures and other licensing issues.**

**Background**

The Nuclear Regulatory Commission (NRC) and the State of Texas define low-level radioactive waste (LLRW) by explaining what kind of waste it is not. LLRW is radioactive waste that does not include high-level waste; spent nuclear fuel from commercial nuclear reactors; transuranic waste produced by the defense nuclear weapons program; tailings waste and other by-products of uranium mining and recovery; NORM (naturally occurring radioactive materials) waste; and oil and gas NORM waste.

In late 1980, Congress passed legislation providing that LLRW produced by non-Department of Energy (DOE) activities could be managed on a state or regional level, encouraging the formation of regional compacts where one state in each compact would serve as the host of a disposal facility. As an incentive, Congress also stipulated that any regional compact could include a provision to exclude waste from outside compact state borders. The Texas/Maine/Vermont Compact (Compact) was passed and signed into federal law on September 20, 1998. The policy is to encourage the economical management and disposal of LLRW. The Compact requires the states of Maine and Vermont to pay \$50 million, \$25 million upon Congressional ratification of the Compact, and \$25 million upon completion of a disposal site and the receipt of the first shipment of waste, with Texas designated as the "host" state. To date, no monies have been collected from either state.

In 1981, the Texas Low-Level Radioactive Waste Disposal Authority (Authority) was created by the legislature to site, develop, operate, decommission, and close a low-level radioactive waste disposal facility for Texas-generated waste. However, in 1999 the legislature abolished the Authority, transferring all its functions to the Texas Natural Resource Conservation Commission (TNRCC), due to the frustration of many legislators that a site had not successfully been permitted. Another factor triggering the abolishment of the Authority was the uncertainty of future of disposal options in Texas due to the apparent inability to pass legislation dealing with LLRW.

Throughout the 76<sup>th</sup> Legislature, legislators debated whether to permanently "landfill" dispose of LLRW, or to utilize the more recently developed alternative of above-ground storage called "assured isolation." Some legislators were concerned that assured isolation had not been sufficiently tested and that its use would not meet the Compact's requirement to dispose of LLRW. (Here, the word "dispose" means providing for the permanent placement of LLRW as opposed to simply storing it.) Another issue was to whom the disposal license should be issued: the state or a private entity. Many argued

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

that if a private entity held the license the state would be unable to limit waste to just Compact waste.

#### **Recommendations**

- Meet the management and disposal requirements of the Texas/Maine/Vermont Compact.
- Allow a private company to obtain a license for the disposal of LLRW.
- Allow assured isolation with the conversion to or future plan for permanent disposal.
- Require sufficient financial assurance to ensure a well-maintained site well beyond post-closure. \*
- Allow only one assured isolation/disposal site to be developed in the state.
- Provide a mechanism for ensuring community acceptance.
- Develop a plan that would set limits on the amount of DOE waste that could be disposed at a Texas site.

\* Current disposal regulations require environmental monitoring for up to 100 years after facility operations cease and closure is complete.

**SENATE COMMITTEE ON NATURAL RESOURCES:  
TEXAS GROUNDWATER RESOURCES**

**Charge**

**Develop a comprehensive study of the state’s groundwater resources, keeping a strong focus on the need for conservation. The committee shall examine a regional approach to groundwater management, inventory the availability of groundwater, and consider the future regulation of groundwater and the role of groundwater conservation districts.**

**Background**

Most of Texas, approximately 80 percent, lies over aquifers—underground geologic formations through which great quantities of water percolate. The Texas Water Development Board (TWDB) has identified and characterized nine major aquifers which supply roughly 97 percent of the groundwater used in the state. In addition to the nine, there are 20 minor aquifers in Texas. Proper planning and management of the state’s groundwater resources cannot occur until we have basic information about the characteristics of each aquifer, such as how much groundwater each aquifer contains, the quality of its water and its source, and the rate at which the aquifer recharges. To provide reliable information on groundwater availability in Texas, TWDB is developing a complex system of computerized groundwater availability modeling. Groundwater availability models (GAM) are mathematical representations of an aquifer using the physics governing groundwater flow to model the behavior of the aquifer over time. These models will be used to make predictions of how water levels might change in the future in response to changes in pumping and climate.

In 1949, the Texas Legislature first authorized the formation of groundwater conservation districts (GWCDs) for the protection of groundwater supplies. Today, GWCDs can be created in three ways: by special legislation resulting from direct appeal to the legislature; by landowner petition as provided in the Texas Water Code; and by the Texas Natural Resource Conservation Commission (TNRCC).

Locally controlled groundwater districts are the state’s preferred method of groundwater management, and during the 76<sup>th</sup> Legislature, interests from across the state sought to create GWCDs for various reasons. In some instances, the goal was to prevent increased or continued draw from groundwater supplies. In others, people were trying to prevent the export of rural groundwater to metropolitan areas, or market excess groundwater. In 1999, the legislature passed S.B. 1911 creating 13 temporary districts that will achieve permanent status only if ratified by the 77<sup>th</sup> Legislature.

**Recommendations**

- Support TWDB’s GAM program, and support expansion of the program to include the state’s minor aquifers.
- Continue and expand TWDB’s Grants for Conservation Equipment Purchases program to include an increase in legislative appropriations and conservation-related equipment such as meters and data collection equipment.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

- Require TWDB's voluntary water use survey to become mandatory in order to improve its effectiveness in projecting future water use, and to recognize outstanding water conservation.
- Expand the state's real-time monitoring network for groundwater level measurements.
- Streamline the process for designating management areas, and direct the TWDB, with assistance from the TNRCC, to complete by September 1, 2003, the designation of management areas so as to cover all major and minor aquifers.
- Streamline the process for designating priority groundwater management areas (PGMAs) and direct the TNRCC, with assistance from TWDB, to complete, by September 1, 2005, the designation of PGMAs where needed across all major and minor aquifers. Also, increase the study period for designating PGMAs from 25 to 50 years to be consistent with S.B. 1 regional water planning provisions.
- Direct TNRCC to create districts in PGMAs within a specific time period of designating the PGMA.
- Encourage TNRCC's creation of districts by streamlining the processes for creating a district through landowner-petition or through TNRCC, and increase TNRCC flexibility in district creation.
- Encourage the boundaries of new districts to be based on designated management areas or PGMAs.
- Recommend the creation of a special district or amendment of an existing district, if TNRCC determines that a pure Chapter 36 (Texas Water Code) district is not appropriate for a certain management area, or that territory should be added to an existing district.

## INTERIM DIGEST

### SENATE COMMITTEE ON NATURAL RESOURCES

- Require the coordinated development of consistent management plans by districts that share a management area. Authorize the TNRCC, under the following circumstances, to enforce the joint management of groundwater in designated management areas:
  - in cases where no plan is submitted;
  - when another district can show good cause for, and requests state action; or
  - if the depletion rate in the aquifer exceeds the projected depletion for that aquifer in the regional water plan or in the districts' management plans.
- Amend Section 36.303, Texas Water Code, to delete the provision related to removal of a district's taxing authority and replace it with language allowing TNRCC to place a non-performing district into receivership.
- Allow districts within the same management area, and possibly with adjoining management areas, to pool financial resources on an equitable basis to allow for joint efforts such as aquifer modeling and studies, educational programs, equipment, brush control projects, and weather modification.
- Enable groundwater conservation districts to ensure revenue adequate to support the district's activities.
- Remove the junior water rights provision on interbasin transfers of surface water due to extensive balancing tests in Texas Water Code, Section 11.085 and attempt to equalize the pressure on both surface water and groundwater resources of the state.
- Repeal groundwater export limitations.
- Support existing state policy that groundwater districts are the appropriate body to manage and regulate groundwater withdrawals in the state.
- Manage, regulate, or limit all groundwater production for use outside of a district's boundaries based on the same factors used to manage, regulate, or limit in-district use, including the number of and procedures associated with district permit application requirements.
- Authorize groundwater districts to assess an export fee or surcharge for water used outside of a district's boundaries with specific limitations, including the stipulation that such a fee or surcharge cannot be used to prohibit exports. Provide that fifty percent of revenues from export fees or surcharges to a state fund be earmarked for water infrastructure financing.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON NATURAL RESOURCES**

- Include conservation and drought contingencies as management goals in district management plans.
- Evaluate the temporary districts created by S.B. 1911 (76<sup>th</sup> Legislature) and ratify those districts that have demonstrated good faith efforts to implement the directives laid out in S.B. 1911.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE ONE**

**Charge**

**Evaluate the state's intermodal transportation planning efforts with an emphasis on NAFTA-related trade corridors and their impact on both metropolitan and rural areas of the state. The committee shall address all modes of transportation including highways, farm-to-market roads, turnpikes, mass transit, aviation, railroads, and water traffic. The committee shall determine whether the state is maximizing federal funding levels, and evaluate alternative and innovative methods of transportation funding and develop recommendations for their use. The committee shall coordinate study of this issue with the Special Committee on Border Affairs. The final preparation of the report will be the responsibility of the State Affairs Committee.**

**Recommendations**

***Highway Planning***

- Create an interim task force to review the process for highway project selection used by the Texas Transportation Commission (TTC).

Authorize the task force to review the selection process by establishing acceptable minimum levels of transportation service and evaluating how well the commission's current selection process achieves those standards. The minimum levels of service should include such criteria as mobility, accessibility, safety, congestion mitigation, and air quality.

Evaluate cooperation between the various transportation planning organizations and whether minimum levels of service are attainable given current funding sources.

***Infrastructure Funding***

- Return the taxes and fees generated from the following programs from the general revenue fund back to the highway fund: motor vehicle inspection fees, driver license fees, and driver record information fees.

- Return highway fund money used by the Texas Department of Public Safety (DPS) for non-highway related purposes, such as capitol security, back to the highway fund. Any legislation should carry a caveat that its provisions become null and void unless alternative funding sources for DPS can be found which result in no decrease to DPS funding.
- Return the highway fund vehicle registration fees in an amount equal to five percent of the vehicle sales tax collected currently retained by counties, and conform the current statute to allow counties to retain five percent of the vehicle sales tax collected, as they did prior to 1992. This recommendation does not affect the constitutional dedication of vehicle registration fees to counties.
- Review benefits received by the state from the increased reporting requirements for motor fuels tax collection and evaluate whether moving the point of collection of motor fuels taxes would result in further benefit to the state.
- Memorialize Congress and the U.S. Department of Transportation to increase the percentage of discretionary funding granted to Texas in order to raise the state's rate of return of federal gas taxes to the Transportation Equity Act for the 21st Century (TEA-21) goal of at least 90.5 cents on the dollar.

#### ***Innovative Financing Methods***

- Urge the Texas Department of Transportation (TxDOT) to continue exploring federal finance mechanisms, such as Transportation Infrastructure and Innovation Act of 1998 (TIFIA) loans, within the scope of authority and power granted in the current statutory framework.
- Memorialize Congress to reinstate federal funding for Texas' State Infrastructure Bank.
- Establish a Revolving Transportation Bond Fund out of revenue streams returned to the highway fund. The fund should be maintained outside of and in addition to the current highway fund and the amount of bonds purchased through this fund should be limited to the amount that the fund can support, as determined by the legislature.

#### ***Toll Authorities***

- Pass a constitutional amendment to remove the requirement that Texas Turnpike Authority (TTA) repay all funds received from TxDOT for construction, operation, and maintenance of toll projects.
- Enact legislation to allow TTA to maintain bond proceeds outside the state general revenue fund.
- Enact legislation to provide parity between the Turnpike Act (Chapter 361, Transportation Code) and the Regional Tollway Authority Act (Chapter 366,



## **INTERIM DIGEST SENATE COMMITTEE ON STATE AFFAIRS**

Transportation Code) by incorporating in the Turnpike Act the improvements made during the 75th Legislature in the Regional Tollway Authority Act.

### ***Freight and Passenger Rail***

- Memorialize Congress to relieve the plight of captive shippers (companies with access to only one rail carrier).
- Create and fund a program for the state to acquire rail in danger of abandonment.

### ***Ports***

- Encourage TxDOT's Port Authority Advisory Committee to continue working with the TTC in order to coordinate infrastructure development; and prioritize projects outside of port gates to improve access to and from Texas' competitive inland and coastal ports.
- Encourage Metropolitan Planning Organizations that have a port within their jurisdiction to seek and accept input from the port authority when planning future transportation projects.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE TWO**

**Charge**

**Study the impact of devolution and other federal streamlining and efficiency efforts on major state agencies, including full-time equivalent employee (FTE) increases, major programmatic changes, and administrative costs to the state. The Committee shall also study conflicts and overlaps among agencies resulting from federally devolved functions and responsibilities. The Committee shall coordinate study of this issue with the Committee on Finance. The final preparation of the report will be the responsibility of the State Affairs Committee.**

**Recommendations**

***General***

- Memorialize Congress to enact laws when necessary to enable the state to obtain the requisite authority and flexibility to administer programs as they are devolved from the federal government.
- Engage Congressional members and heads of federal agencies through letters and face-to-face meetings requesting specific changes to federal statute and agency rules in order to obtain the requisite authority and flexibility to administer programs as they are devolved from the federal government.

***Texas Workforce Commission (TWC)***

- Engage Congress and the Department of Labor to provide consistent definitions for performance and cost categories, a uniform cost allocation policy, and uniform program years, planning cycle, and reporting methods for all workforce programs that have been devolved to TWC.

***Texas Department of Housing and Community Affairs***

- Change the due date of the state low income housing plan and annual report (a state mandated plan) to coincide with those of the federal five-year plan and one-year action plan.
- Engage Congress and the Department of Energy to approve the use of the state System Benefit Fund as a cost sharing source for the Weatherization Assistance Program.

***Texas Department of Human Services***

- Request improvement to the federal Health Care Financing Administration funding methodology to ensure that Texas and every state receives its fair share of the funding.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON STATE AFFAIRS**

#### *Texas Department on Aging*

- Petition Congress to allow for the inclusion of “winter Texans” in the Older Americans Act program funding formula and enlist the assistance of other states that experience winter residents for such an allowance.
- Memorialize Congress to amend the Older Americans Act program funding formula to remove the hold-harmless clause that maintains funding in less populous states at the expense of Texas and its older citizens.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE THREE**

**Charge**

**Evaluate the safety of the state’s commercial trucking industry, including the safety of roads and bridges; enforcement of truck safety regulations by the Texas Department of Public Safety (DPS) and other law enforcement entities; the effectiveness of current laws relating to oversize and overweight vehicles; and the adequacy of the fee structure designed to compensate county governments for road repair.**

**Recommendations**

***Overweight Vehicles***

- Allow DPS license and weight enforcement officers to inspect for weight violations on “any public highway.”
- Amend the current statute to reflect the means by which federal motor carrier safety officers inspect proper weight in regards to tire pressure.

Texas’ weight enforcement officers should use the allowable weights specifications marked on the sidewall of the tire in lieu of measuring pounds of pressure per inch of tire width.

- Establish one section for penalties on all overweight violations.
- Remove authorization for any vehicle to travel over a bridge unless the vehicle’s weight is at or below the posted weight of the bridge. The Texas Department of Transportation (TxDOT) bridge mapping project is an integral component of this safety effort, and the department should aggressively publicize this project to the trucking community to insure its success.

When an alternate route exists, mandate that commercial motor carriers use that alternative route to avoid traveling over a bridge for which their load exceeds the posted weight.

Direct TxDOT to identify load-posted bridges for which no alternative route exists; prioritize such bridges under TxDOT’s new bridge rehabilitation initiative in order to provide safe and efficient routes for commercial trucks.

- Find ways to successfully identify commercial truck drivers who cause damage to state or non-state maintained roads and enforce collection on the bonds that drivers who carry weight tolerance permits already maintain.
- Direct TxDOT to conduct a study of the factors that cause road damage and revise its funding formulas to give more consideration to truck volumes and pavement conditions, as well as to reflect and address the damage caused by NAFTA-related truck traffic.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON STATE AFFAIRS**

- Implement a law similar to Minnesota's Relative Evidence Law in order to increase weight enforcement opportunities, as well as to hold responsible those who actually cause a commercial vehicle to be operated over its allowable weight.

#### ***Motor Carrier Safety Regulations***

- Authorize additional, qualified municipal police officers and county sheriffs and their deputies to enforce commercial vehicle safety regulations.

In granting wider enforcement authority, address certified training and judicial uniformity issues.

- Review the current study by TxDOT assessing the viability of prohibiting trucks from certain lanes in Houston to assess whether it is applicable in other metropolitan areas.
- Insure that proper preventative maintenance is performed on all intermodal equipment before being transported on the state's public roads.

#### ***Fee structure for "off-system" roads or roads maintained by counties and municipalities***

- Attempt to increase and more equitably allocate the revenue currently provided to municipal and county governments for "off-system" maintenance and construction.
- Memorialize the federal government to fund county and municipal inspections of overweight traffic traveling within 20 miles of the Border Commercial Zone by creating a federal category under NAFTA for commercial vehicle infrastructure damage.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE FIVE**

**Charge**

**Study the funding and expenditure of metropolitan transit authorities (MTAs) and budgetary relationships that MTAs have with the cities they serve. The committee shall analyze the overall fiscal management of the MTAs and the effectiveness of their delivery of services on a cost-benefit basis.**

**Recommendations**

- Urge MTAs to consider contracting with cities outside their service areas to provide specific services. Under such contracts, cities would pay all costs associated with the services, without subsidy from the MTAs. Voter approval would be required. Contracting cities would not have a seat on the MTAs' board, nor would they be allowed to participate in the MTAs' community programs. This recommendation applies only to cities not currently members of an MTA.

Allow cities to pay the costs through one or more of the following: available sales tax, bonds, or general revenue. A change in statute would be necessary so that cities may levy an additional sales tax (within the cap) dedicated to a contract for transit services.

Examine the viability of using economic development corporations created under 4A or 4B sales tax as a mechanism to finance a contract.

- Allow cities with some sales tax left under the cap to join MTAs at a reduced rate for reduced services. These cities would not have a seat on the MTAs' board, nor would they be allowed to participate in the MTAs' community programs. All current member cities would need to agree. Applies only to cities not currently members.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE SIX**

**Charge**

**Study whether certain types of vehicles such as buses for mass transit, EMS and fire fighting vehicles, and heavy trucks should be subject to all of the licensing requirements applicable to automobile dealers.**

**Background**

During the past legislative session, the Committee on State Affairs heard S.B. 1146, which attempted to remove the necessity for licensed dealers to participate in bus sales by allowing out-of-state bus manufacturers to sell directly to Texas municipalities, transit authorities, and other governmental entities. The bill would have legalized a common practice among transit authorities, some of whom bought large, made-to-order buses directly from the manufacturer. Those in favor of S.B. 1146 argued that large buses used for mass transit undergo stringent testing mandated by federal regulations prior to the sale. Only a few out of state manufacturers make these buses and requiring them to be bought through a Texas dealer would add unnecessary costs without any benefit to the public.

Opponents of the bill said that bidding through a licensed dealer keeps down the price of the buses, that licensed dealers provide a necessary link to the Texas Department of Transportation (TxDOT) to enforce state law against manufacturers, and that licensed, Texas dealers contribute to the state's economy.

**Recommendations**

- Subject all vehicles to the licensing requirements applicable to automobile dealers. Testimony taken in committee did not provide sufficient evidence to remove any vehicle from the regulatory framework in Texas law. This framework provides valuable links between Texas consumers and out-of-state manufacturers, in which dealers serve as responsible intermediaries. It would not be advantageous to remove the current safeguards which protect consumers against warranty problems or defective vehicles.
- Continue to examine the role of licensed dealers in the state's regulatory structure, especially as it pertains to sale of automobiles over the Internet.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE SEVEN**

**Charge**

**Evaluate the cost-effectiveness of the purchase of insurance and surety bonds by state agencies and institutions, including an evaluation of premiums paid and claims recovered.**

**Background**

The Senate Committee on State Affairs Report to the 77th Legislature found that although the state can accurately assess the amount of money spent on insurance premiums, the fact that the state lacks reliable and comprehensive information on the amount of claims recovered prevents the state from adequately determining the most cost-effective means by which state entities should insure themselves against risks due to loss.

The Texas State Auditor's Office reported that there were significant opportunities for recurring cost savings if the State were either to eliminate or consolidate surety bond coverage for state employees. In the absence of claims data suggesting otherwise, there is little economic justification for maintaining surety bond coverage for state officers and employees, especially with respect to coverage that is capped at \$10,000. Any state agency should be able to absorb the risk associated with such a loss.

**Recommendations**

- Enhance and simplify the reporting process by requiring insurers writing policies for state agencies and institutions to file a certificate of insurance with the State Office of Risk Management (SORM) at the time that a binder on a policy is issued, and granting to SORM the authority to request from the insurer a loss run on any policy issued to a state agency or institution.
- Designate an appropriate agency to approve surety bond coverage for state employees when warranted by special circumstances.
- Charge the designated agency to make recommendations to the legislature regarding potential amendments to Section 653.002 et. seq., Government Code, and the potential elimination of general surety bond requirements.



**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE NINE**

**Charge**

**Monitor the implementation of S.B. 138, 76<sup>th</sup> Legislature, Regular Session, relating to government restrictions on the exercise of religion.**

**Background**

No cases involving the Texas Religious Freedom Restoration Act (RFRA) have been adjudicated, therefore, it is impossible to determine how the courts will enforce the rights granted under RFRA.

**Recommendation**

- Continue to monitor court enforcement, municipality behavior, and correctional facility rules relating to RFRA.

**Charge**

**Monitor the implementation of H.B. 2611, 76<sup>th</sup> Legislature, Regular Session, relating to electronic reporting of certain political contributions and expenditures.**

**Background**

Texas' electronic filing system went live on July 1, 2000. July 17 was the first major filing deadline and almost 30 percent of the filers filed electronically. Judicial district offices were exempted from the electronic filing legislation because some judicial district offices were not required to file campaign finance reports with the Texas Ethics Commission (TEC). Pursuant to other legislation of the 76<sup>th</sup> Legislature, all judicial offices are required to file campaign finance reports with TEC.

**Recommendation**

- Remove the exemption for judicial district offices from the requirements of the electronic filing laws.

**SENATE COMMITTEE ON STATE AFFAIRS:  
CHARGE TEN**

**Charge**

Review Texas' State Use Program and the benefit provided to persons with disabilities. The committee shall examine the powers and duties of the Council on Purchasing from People with Disabilities; funding methods for the council staff and activities; the council's oversight of the central nonprofit and community rehabilitation program work centers; the utilization by and satisfaction of customers with goods and services provided under the program; the nature of disabilities required for participating in the program; and the adequacy of rules governing the program, including whether standards of eligibility for work center products and services should be added to the statute. The committee shall also ensure the appropriate nature and amount of involvement by people with disabilities in the production of goods and provision of services.

**Background**

Texas seeks to assist persons with disabilities to achieve productive employment through a program encouraging state agencies to purchase goods and services from entities whose primary purpose is training and employing persons with mental or physical disabilities, if the products or services meet state specifications. The council contracts with a central nonprofit agency (CNA) to recruit and assist community rehabilitation providers (CRP) in developing and submitting a selection of goods and services and to manage and coordinate the daily operations of the program. Texas Industries for the Blind and Handicapped (TIBH) is the current CNA. The council reviews and approves goods and services for purchase by state agencies. The council is not authorized by statute to employ its own staff, but instead receives administrative, clerical, and other support from the General Services Commission (GSC). The committee found that while the program has provided many persons with disabilities with employment opportunities, the program has been adversely affected by ambiguous statutory language and the lack of rules, policy guidelines, oversight, administrative rules, and staff.

**Recommendations**

- Give the council clear statutory authority to select a CNA through generally accepted competitive bidding procedures set out in the Government Code and clarify the selection procedures.

## **INTERIM DIGEST**

### **SENATE COMMITTEE ON STATE AFFAIRS**

- Give the council clear statutory authority to select a CNA for periods not to exceed five years. After the initial contract period, the council should have clear statutory authority to renegotiate another contract for a period not to exceed five years or terminate the contract and seek another CNA through competitive bidding. A CNA contract should include terms allowing the council to terminate the contract at any time upon providing at least 30 days notice and proof of a CNA's failure to fulfill its obligations under the contract.
- Give the council statutory authority to employ its own minimal staff, housed in GSC, to oversee a selection of a CNA, provide contract oversight, act on violations of rules and standards, oversee CRPs, research appropriateness and legal ramifications of proposed products and services, assess applications submitted by a CNA on behalf of CRPs, recommend to the council certification of products and services, and research policy.
- Grant the governor greater flexibility when appointing members of the nine-member council, selecting from a list that includes persons with disabilities, private citizens conversant with the employment needs of persons with disabilities, representatives from CRPs that represent different disabilities, and representative from state agencies or political subdivisions that purchase significant amounts of products or services sold through the program. The governor should be required to include at least one representative from each category and ensure that each category is proportionally represented on the council.
- Require GSC to assign an employee (preferably at the deputy executive director level) to ensure its responsibilities to the program are met and the program's policies and initiatives are coordinated with GCS's statewide procurement functions.
- Grant the council statutory authority, as required in Section 2110.001, Government Code, to establish advisory committees to assist the council in various areas, including reviews of the program's effectiveness and recommendations of innovative ideas for program expansion.
- Fund the additional staff from a management fee charged to CRPs by the CNA.
- Give the council statutory authority to receive from a CNA and CRPs financial disclosures and other pertinent information that directly relate the program. Records from a CNA or CRPs should respect the recognized legal privacy interests of CNA or CRP employees, except that the compensation of a CNA employee or subcontractor should not be protected from disclosure.

## INTERIM DIGEST

### SENATE COMMITTEE ON STATE AFFAIRS

- Continue the council's statutory authority to review on an annual basis the management fee charged by a CNA. The fee should be reasonable and based on actual services provided by a CNA. The council should be statutorily authorized to request an audit of the financial condition of a CNA.
- Give the council statutory authority to adopt:
  - conflicts of interest rules that apply to the council, CNA, and CRPs to avoid possible confusion and abuses of program;
  - rules outlining the criteria CRPs must meet to participate in the program; and
  - rules for certification of services and goods offered by CRPs.
- Require that any dispute between the council, CNA, or CRPs proceed under Alternative Dispute Resolution before access to the courts is permitted.
- Require GSC to include the program in state agency procurement policy manuals.
- Require state agencies to designate a staff member to ensure that the program's mandatory provisions are followed. Each agency should be required to report purchases of products made outside the program to GSC based on a sampling of purchases performed through post-audit purchases. GSC should be statutorily required to include this information in its exception reports to the council.
- Give the council statutory authority to expand or limit the definition of "disability" to meet the changing needs of the disabled community. In defining "disability," the council should seek recommendations from the Texas Rehabilitation Commission, Texas Commission for the Blind, and the Department of Mental Health and Mental Retardation.
- Grant the council statutory authority to define the percentage of disabled labor that a CRP must employ for acceptance of a product or services on set aside and ensure compliance.
- Require the council's annual report to include information from CRPs participating in the program regarding the number of disabled and nondisabled workers employed and the average and range of weekly earnings for these workers. Statutorily require a CNA to provide current information on earnings of people with disabilities by product or service, facility, and overall total average.
- Give the council clear statutory authority to adopt rules defining "value added" and "direct labor" for products manufactured or services provided for sale through the program.

# INTERIM DIGEST

## SENATE COMMITTEE ON VETERAN AFFAIRS AND MILITARY INSTALLATIONS

### SENATE COMMITTEE ON VETERAN AFFAIRS AND MILITARY INSTALLATIONS

#### Charge

**Develop strategies to extend the operational usefulness of Texas military facilities and attract new military missions. The committee shall limit its recommendations to what Texas government and business, together with localities, are capable of offering without the need for federal action or approval, including increasing the number of public/private economic development partnerships involving active military bases in Texas.**

#### Recommendations

- Elevate the Office of Defense Affairs (ODA) to an office within the Department of Economic Development, directly under the Executive Director, to increase its visibility due to the increasing importance of the defense industry to the Texas economy. ODA shall: maintain and update annually the statewide defense master plan, *The Defense Community in Texas: A Master Plan for the Future*; include a list of privatization projects aimed at controlling costs at military installations in the master plan; continue to quarterly update the legislature, Office of the Governor, and the Senate Committee on Veterans Affairs and Military Installations on the economic trends of the defense industry. The Committee also recommends that the Texas Strategic Military Planning Commission be elevated so that it reports to the Office of the Governor.
- Increase the ODA to include a full time employee as a military affairs specialist(s) to assist ODA with initiatives of the Texas Strategic Military Planning Commission, Texas base communities, and the Texas defense industrial base. The committee further recommends that funds be appropriated as needed, and that the military affairs specialist(s) be stationed in the Texas Office of State-Federal Relations in Washington, D.C.
- Urge the ODA to ask each of the state's military bases to conduct and publish a five-year strategic infrastructure plan, specifying state investments that could serve to reduce the long-term cost to the state while increasing the potential for selective private sector investment and use.
- Create a Defense Infrastructure Revolving Loan Fund to assist active military installations and adjacent communities with infrastructure shortfalls.
  
- Consider appropriating funds to the Texas Department of Transportation (TxDOT) or seek alternative funding to complete State Highway 195 as a four-lane, divided highway from Killeen to Interstate Highway 35 to facilitate surface road deployment of equipment and troops from Fort Hood to strategic coastal ports. Prioritization of construction, as necessary, along the entire deployment route to the

## **INTERIM DIGEST SENATE COMMITTEE ON VETERAN AFFAIRS AND MILITARY INSTALLATIONS**

ports to meet the completion time-line should be considered integral to the State Highway 195 expansion plan. Require the TxDOT to complete a comprehensive study of the state's strategic deployment routes and place the improvement of such routes at a higher priority than other state road projects.

- Establish a new \$20 million Strategic Defense Investment Program during 2003 to mitigate future military installation closures and assist affected communities in attracting other industries.
- Modify the Texas Insurance Code to discount automobile insurance for military members similar, to Article 503-3 and Article 503-5 of the Texas Insurance Code.
- Urge that members of the United States armed forces on active duty and not seeking a degree be exempted from the TASP (Texas Assessment of Student Progress).

### **Charge**

**Assess the effectiveness of state benefits currently available to veterans and make recommendations to improve their delivery. The committee shall consider, but is not limited to: veterans workforce and job search assistance; state agency compliance with veterans preference laws; and the state's educational assistance for veterans, especially any need to modify Section 54.203 of the Education Code (the Hazlewood Act).**

### **Recommendations**

- Consider legislation to allow the citizens of Texas to vote on a constitutional amendment on November 6, 2001, that would increase the bond authority for the Veterans Home Loan Program.
  
- Consider directing the agencies that administer veterans programs to adopt a Memorandum of Understanding to coordinate delivery of veterans' benefits to improve visibility and delivery of veterans services.
- Continue to support locating veterans' homes in areas of the state that are not served by Veterans Administration hospitals and have a significant population.
- Fund maintenance and operations for state veteran cemeteries in perpetuity. Due to the lack of national cemeteries in the Rio Grande Valley, Central Texas, East Texas, and the Panhandle, these areas should be especially considered for veteran cemeteries.

**INTERIM DIGEST  
SENATE COMMITTEE ON VETERAN AFFAIRS  
AND MILITARY INSTALLATIONS**

- Consider supplemental funding for an enhanced Texas Veterans Transportation Network for existing networks to assist in the transportation of veterans to Veterans Administration hospitals and other veteran service facilities.
- Be advised of the potential constitutional issue related to the residency requirement of Section 54.203 of the Texas Education Code (the Hazlewood Act, Appendix B).





---

---

***House  
Committee  
Reports***

---

---

---

---

---

---

**HOUSE COMMITTEE ON AGRICULTURE AND LIVESTOCK**

**Charge**

**Examine regulations imposed on agricultural operations by different state and federal agencies to identify any conflicts, including instances where state regulations are more stringent than federal regulations for the same program.**

**Background**

The Texas Department of Agriculture (TDA), under the jurisdiction of the Agriculture and Livestock Committee, performs various regulatory duties. The committee has determined that in the areas of pesticide regulation and organic farming certification, Texas' laws are more stringent than the federal requirements.

**Recommendations**

- Examine pesticide laws and regulations to determine the feasibility of maintaining the current reporting and record keeping requirements.
- Maintain current organic farming requirements that enhance the market for those producers reaching organic status.

**Charge**

**Compile an inventory of agricultural research currently underway and recently completed. Assess the economic benefits of the research, identify any duplication, and consider ways to coordinate or more effectively focus research efforts.**

**Background**

The committee contacted the state's universities and research institutions and requested an inventory of system-wide research projects, both completed and ongoing. The request was made for studies having agriculture as the main focus as well as for those indirectly related to agriculture.

The volume of research data is quite extensive and the committee's report provides a list with the primary research facility noted. However, most research initiatives are partnered with other institutions, agencies, and private corporations. Information presented to the committee showed that a great degree of coordination among research institutions exists to prevent duplication, thus maximizing research dollars efficiently.

**Recommendations**

- Continue to support the highly valued agricultural research conducted at our institutions of higher learning.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON AGRICULTURE AND LIVESTOCK**

- Examine the feasibility of creating a web-based clearing-house of agricultural related research similar to the model established at the Texas Food and Fiber Commission.

#### **Charge**

**Examine the feasibility of agricultural producers voluntarily constituting agricultural development districts as a means of sharing the benefits of value-added processing.**

#### **Background**

Value-added refers to the contribution made when converting raw commodities and purchased inputs into semi-finished or consumer-ready products of greater value. Value-added processing transforms commodities into products worth more to the marketplace, resulting in more jobs and increased incomes for producers. The TDA estimates that a one-percent increase in value-added processing of Texas commodities would result in \$2 billion in economic activity for the state. Large processing corporations in Texas have many advantages, including the availability of capital. Although the economic benefits of these processing corporations is appreciated, the producers of Texas need a more level playing field to develop their own value-added processing plants, in order to improve their situation and bolster local economies.

#### **Recommendations**

- Provide Texas producers with the ability to voluntarily form agricultural development districts to process agricultural commodities, providing them an opportunity to share in the benefits of value-added food and fiber.

#### **Charge**

**Examine and evaluate programs in other states designed to preserve farmland, especially in proximity to metropolitan areas.**

#### **Background**

Some states and groups see farmland preservation as a means of maintaining open space and limiting urban sprawl. In many state programs, preserving farmland is just a part of land conservation, included among other considerations such as scenic and recreational value, and historic and biodiversity (the variety of life forms that have developed) value. For others, preserving farm and ranch land for the sake of agricultural production is the primary goal, leaving the benefits of open spaces and controlled urban sprawl as byproducts.

**Recommendation**

- Continue to support and uphold current private property rights laws held by Texans, recognizing the value of farmland preservation and the right of these citizens to enter into farmland preservation agreements, including the purchase of development rights and agricultural easements.

**Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

**Recommendations**

No recommendations were made.

**HOUSE COMMITTEE ON BUSINESS AND INDUSTRY**

**Charge**

**Examine ways to deter and punish consumer fraud directed at senior citizens, including telemarketing.**

**Background**

The past decade has seen a rise in fraud against senior citizens, which has increasingly become a concern of policymakers and law enforcement agencies.

**Recommendations**

- Prohibit the use of the word “winner” in correspondence and telephone conversations unless the consumer has won something of value.
- Prohibit the practice of offering a free month’s subscription, membership, etc., if doing so automatically enrolls an individual in a program for a lengthy period.
- Increase awareness efforts to alert consumers of their authority to seek civil remedies under Texas law.

**Charge**

**Consider the benefits and problems associated with contingency clauses in construction contracts.**

**Background**

In the construction industry, general contractors and subcontractors enter into contracts to ensure payment of work done or materials received. Recently, though, general contractors have found that they cannot assume the total risk of large projects, which is the traditional practice, and seek to ensure timely and equitable payment of obligations.

**Recommendations**

- Suggest that it is the responsibility of the Texas Legislature to make a judgment on whether contingency clauses violate the public policy of Texas.
- Suggest that the legislature address the lack of recourse available to a subcontractor involved in a contract containing a contingency payment clause.
- Suggest that the state limit contractual authority between parties.

**Charge**

**Study the emergence of the healthcare technology industry in Texas. Identify the factors promoting and inhibiting development of the industry and consider state or private actions affecting its growth.**

**Background**

The healthcare technology industry in Texas is an emerging and growing industry with one out of every twenty healthcare technology jobs in the nation found in Texas. Biotechnology has developed out of the healthcare sector and has the potential to contribute substantially to the Texas economy. Recent studies have determined that certain factors are key to the successful development of a biotechnology center.

**Recommendations**

- Encourage intellectual property (IP) development.
- Encourage professors to participate in the commercialization of ideas.
- Suggest a profits-of-equity allocation of 50 percent to the IP creator, 25 percent to the university, and 25 percent to the originating (university) department.
- Expand current law to encourage, permit, and mandate technology transfer of intellectual property at all universities and health sciences centers.
- Resurrect the Office of Advanced Technology and the Texas Innovation Network System.
- Expand the Technology Assistance Center and the Product Evaluation Program.
- Allow a sales tax exemption on research and development expenses for certain-sized companies, instead of the exemption for franchise tax.
- Allow a tax exemption on the purchase of equipment for research or manufacturing purposes.

**Charge**

**Assess the public's view of telemarketing generally, the desire and need for simpler ways to prevent nuisance calls, and whether views depend on the business of the vendor or solicitor.**

**Background**

Telemarketing has grown into a \$460 billion industry, employs 275,000 Texans and contributes more than \$80 billion in goods and services to the state's economy. However, the Federal Bureau of Investigation estimates there are 14,000 illegal telemarketing operations; it is estimated that consumers nationwide lose \$40 billion

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON BUSINESS AND INDUSTRY**

annually through telemarketing fraud. The Public Utility Commission reports that telephone solicitation complaints have been rising over the past few years in the state.

#### **Recommendations**

- Recommends the recodification of Texas statutes governing the telemarketing industry.
- Recommends more direct access for consumers to civil remedies in fraud cases.
- Allow district and county attorneys to build a fraud case based on the testimony of select witnesses.
- Allow direct or circumstantial evidence in telemarketing fraud cases.
- Strengthen the registration process for telemarketers, including requiring personnel and records of all sales to be maintained at every site.

#### **Charge**

**Consider the legal status and policies appropriate to any surplus funds held by the Texas Worker's Compensation Insurance Fund. The committee's consideration should be directed at assuring that sufficient funds are available to deal with all possible market conditions.**

#### **Background**

Created in 1991, the Texas Workers' Compensation Insurance Fund (the fund) serves as a stabilizing force on the workers' compensation market in Texas as well as serving as the designated provider of last resort. Currently, the fund has a surplus (unobligated funds) that was considered for appropriation to the general revenue fund by a bill last session.

#### **Recommendation**

- Suggest statutory clarifying language that specifically exempts the fund from the Government Code, Chapter 316, Subchapter D (Appropriations of Unobligated Fund Balances to General Revenue Fund).



**HOUSE COMMITTEE ON CIVIL PRACTICES**

**Charge**

**Examine the effect and potential of sales and other alienation of structured settlements on the use and advisability of such settlements.**

**Study the exercise of conflicts jurisdiction by the Supreme Court (Court) under Sections 22.001(a) and 22.007(a) of the Government Code (Code).**

**Examine the impact of requiring trial court judges to specify the grounds upon which summary judgments are granted.**

**Examine the Supreme Court's rule-making authority, any conflicts between Section 22.004(c) of the Code, and Article 5, Section 31, of the Texas Constitution, and the role, if any, that the legislature should play in the Court's rule-making process.**

**Collect information from Texas trial and appellate courts that will assist the committee in evaluating the success of recent legislation and in making decisions regarding future legislation.**

**Background**

**First Charge:** A structured settlement means that a person receives periodic payments in exchange for the settlement of a lawsuit or other claims. Under Texas law, a settlement recipient may sell a structured settlement for a lump sum payment, but the purchaser, in exchange, will discount the value of the structured settlement. The sale of a structured settlement has federal tax consequences and currently, under Texas law, it is not clear which party is liable. The National Structured Settlement Trade Association (NSSTA) and the National Association of Settlement Purchasers (NASP) have proposed legislation to the United States Congress that amends the federal Internal Revenue Code and have developed a model act that may be adopted by the states.

**Third Charge:** H.B. 2186, enacted by the 76<sup>th</sup> Legislature, established conditions regarding the granting of a summary judgment by a court, including the requirement that the judge granting a motion for summary judgment must specify, in writing, the grounds for granting the motion. The bill was vetoed on the grounds that it proposed unnecessary and confusing changes to civil law regarding summary judgements. The Texas Supreme Court Advisory Committee (SCAC) has proposed changes to the rules of civil procedure imposing conditions on the granting of such judgments which requires courts to specify the ground or grounds on which a motion for summary judgment was granted.

**Fifth Charge:** The Texas Legislative Council, Statistical and Demographic Analysis Division, conducted a survey of the Texas trial and appellate courts regarding past and future legislation before the Committee. The results of the survey are included in the Committee's report, but the Committee made no recommendations or findings regarding this material.

**Recommendations**

## INTERIM DIGEST HOUSE COMMITTEE ON CIVIL PRACTICES

- Enact legislation necessary to compliment and/or enable the legislation currently pending in Congress, consistent with the compromise between the NSSTA and the NASP, provided that the pending federal legislation is completed. If the federal legislation fails, the legislature should consider imposing moratorium periods during which court-ordered structured settlements could not be sold or factored and requiring court approval of the sale or factoring of such settlements.
- Defer any additional legislation establishing conditions regarding the granting of a summary judgment by a court if the pending rule changes are adopted in substantially the form proposed by SCAC. If the changes are not adopted, the legislature should reconsider this matter.

### **Regarding the fourth charge:**

- Require the Court to develop parliamentary rules of procedure under which the SCAC would operate and conduct all hearings.
- Require the Court to implement an official web site providing all information regarding public hearings and all related materials, such as written transmittals and transcripts from each hearing and correspondence in support of or opposition to pending rules, along with the ability to collect comments electronically.
- Apply the Open Meetings Act and Open Records Act to the SCAC and require the Court to publish notice of all SCAC hearings and subcommittee meetings in the Texas Register, the Texas Bar Journal, the Court's official web site, and the Capitol Posting Boards located throughout the State Capitol Building in Austin, Texas.
- Amend Section 22.004(c) of the Code, which currently reads as follows: "or each part of an article or section of general law that in the court's judgment is repealed." to read: "or each part of an article or section of general law that is repealed or modified in any way."
- Amend Section 22.004(b) of the Code, to re-insert the following sentence, which was deleted by acts of the 71st Legislature in 1989: "The secretary of state shall report the rules or amendments to rules to the next regular session of the legislature by mailing a copy of the rules or amendments to rules to each elected member of the legislature on or before December 1 immediately preceding the session."

# INTERIM DIGEST

## HOUSE SELECT COMMITTEE ON CONSTITUTIONAL REVISION

### HOUSE SELECT COMMITTEE ON CONSTITUTIONAL REVISION

#### Charge

**Evaluate the public perception of the need for comprehensive revision of the Constitution. If appropriate, develop a plan for revision (such as an article-by-article review by a legislative committee over a prescribed period, establishment of a constitutional revision commission that includes scholars and members of the public, or a constitutional convention), including a proposed schedule.**

#### Background

The current Texas Constitution dates from 1879 and has been criticized as an unwieldy and sometimes outdated document in need of revision. In 1974, a constitutional convention was held and a new document was proposed, but ultimately was not approved. During the 76<sup>th</sup> Legislature, Sen. Ratliff introduced S.J.R. 1, another new constitution with many similarities to the 1974 document, which also failed to pass.

#### Recommendations

It is not necessary at this time to establish a constitutional revision commission or a constitutional convention. Rather, the committee believes that further review by legislative committee is not only adequate, but also the most appropriate and effective means of determining the state's constitutional goals.

Having conducted public hearings regarding Articles 3, 5, and 16, the committee recommends the following schedule (including proposed topics of study) for review of additional articles:

#### Interim: 77th Legislature

➤ Article 4 (Executive)

offices of Governor, Lieutenant Governor, Secretary of State, Comptroller of Public Accounts, Commissioner of the General Land Office, and Attorney General.

board of Pardons and Paroles

terms of office

Election/appointment process

Impeachment

Compensation

Veto authority

# INTERIM DIGEST

## HOUSE SELECT COMMITTEE ON CONSTITUTIONAL REVISION

Eligibility

Absence or vacancy

➤ Article 7 (Education)

Perpetual School Fund

Permanent School Fund

Available School Fund

School lands

State Board of Education

Junior College Districts

Independent School Districts

District Boundaries

University Administration

Permanent University Fund

Appropriations

### **Interim: 78<sup>th</sup> Legislature**

➤ Article 8 (Taxation and Revenue)

Ad valorem taxation

Exemptions

Occupation taxes

Maximum tax rates

Local Tax Assessor-Collectors

➤ Article 11 (Municipal Corporations)

Debt provisions by state and local government

Home rule charter authority

Lending of credit

# INTERIM DIGEST

## HOUSE SELECT COMMITTEE ON CONSTITUTIONAL REVISION

Public property exemption

Terms of Office

The committee concluded that the following articles did not merit full review at this time: Articles 1 (Bill of Rights), 2 (Powers of Government), 6 (Suffrage), 9 (Counties), 15 (Impeachment), and 17 (Mode of Amending the Constitution of this State). Comments regarding the possible repeal of sections of Articles 10 (Railroads), 12 (Private Corporations), and 14 (Public Lands and Land Office) may be found in the text relating to Charge 3.

### Charge

**Identify specific changes the public would support in Article 3 (Legislative Department), Article 5 (Judicial Department) and Article 16 (General Provisions).**

### Background

Testimony supporting increasing the number of members of the House of Representatives is included in the appendices of the report. Much testimony was heard on the method for selecting judges but there was no consensus on this issue. However, all the witnesses agreed that there is a perception that judges are being influenced by campaign contributions, and there was general consensus that the state should do whatever possible to correct this image.

### Recommendations

No recommendations were made.

### Charge

**Identify remaining obsolete, ineffective, executed or other irrelevant provisions of the Constitution.**

### Background

In 1999, the electorate approved H.J.R. 62, an amendment to the Constitution that removed duplicative, executed, obsolete, archaic, and ineffective provisions from that document. There are still some sections, however, that could be considered superfluous. These include Art. 10, Sec. 2; Art. 12, Secs. 1 and 2; Art. 14, Sec. 1; and Art. 16, Sec. 49. There are other sections that are intrinsically unnecessary because they grant powers to the state where the state already has plenary powers.

### Recommendations

No recommendations were made.

**HOUSE COMMITTEE ON CORRECTIONS**

**Charge**

**Study all aspects of special needs parole, including identification and eligibility criteria, cost-effectiveness, and timeliness and efficiency of the referral process.**

**Background**

Texas allows special needs parole (the early release of certain ill inmates to nursing facility care) that was enacted primarily as a cost-saving measure. There have been problems with the identification, timeliness, and efficiency of the identification of eligibility, and the timeliness of the parole process. The committee finds that many of these problems have been addressed over the interim by the Texas Council on Offenders with Mental Impairments (TCOMI) and the Board of Pardons and Paroles (board). However, there is a need for clarification of the current statute and improvement in the program's cost-effectiveness.

**Recommendations**

- Replace the Texas Department of Criminal Justice Institutional Division with TCOMI as the agency responsible for identification of inmates medically eligible for special needs parole.
- Require placement of a special needs parolee in a designated skilled nursing facility upon parole approval by the board.
- Include provisions for review of the status of the special needs parolee to ensure the offender still qualifies under the special needs parole program.
- Provide for a conditional medical release to allow Medicaid coverage while an offender is receiving treatment at a medical facility outside the auspices of the institutional setting.

**Charge**

**Assess the effectiveness of previous legislative and administrative initiatives relating to problems associated with parole violators (blue-warrant inmates) in county jail.**

**Background**

At the time offenders are released on parole or mandatory supervision from the Texas Department of Criminal Justice Parole Division (TDCJ), they agree to terms and conditions by which they must abide while under supervision. Violation of the terms or conditions ultimately results in the issuance of a blue warrant, which allows the offender to be reincarcerated. Time frames surrounding this process had been problematic. H.B. 1112 of the 75<sup>th</sup> Legislature established time limits for the completion of the proceedings surrounding blue warrants and clearly laid out the responsibilities of all parties involved.

Based on testimony, the committee finds that TDCJ and the Board of Pardons and Paroles have taken further steps to ensure compliance with H.B. 1112 and the efficient and fair use of blue warrants.

**Recommendation**

- Continue to monitor the implementation of H.B. 1112 and the blue warrant process as a whole.

**Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction, including monitoring the developments related to the *Ruiz* litigation over conditions in Texas prisons.**

**Recommendations**

No recommendations were made.

**HOUSE COMMITTEE ON COUNTY AFFAIRS**

**Charge**

**Review the cost of statutory county duties, including federal mandates, and the ability of county tax bases and fees to support such duties.**

**Recommendations**

- Establish a County Financial Data Committee (committee) funded by grants and consisting of county officials. With assistance and support from the comptroller's office, the committee would study current county financial reporting requirements and systems, and make recommendations regarding how the collection and use of county financial data can be improved without resulting in additional costs to the counties.

Require, at a minimum, the committee to address uniformity, duplicative reporting requirements, Government Accounting Standards Board – Statement #34 (GASB34), electronic filing, and the cost of meeting these requirements.

Urge the committee to use the resources of the Texas Association of Counties and the Conference of Urban Counties for committee meetings.

- Provide financial assistance to fund essential county government services in counties with insufficient tax bases and which are reaching the constitutional cap of eighty cents per \$100 property valuation.
- Expand the Unfunded Mandates Interagency Work Group to include a county and a city representative.
- Reimburse all counties for the full costs of providing child support services for the State of Texas.
- Increase state assistance to support the county road systems, particularly where county roads are affected by state-permitted overweight trucks.



## **INTERIM DIGEST HOUSE COMMITTEE ON COUNTY AFFAIRS**

### **Charge**

**Examine areas in which the state might beneficially devolve authority and programs to county governments. Assess the interest and ability of county governments to accept more authority.**

### **Recommendations**

- Consider, on a case-by-case basis, as opportunities arise and benefits are identified, the devolution of state services to the local level. Any devolution legislation developed should be specific for a policy area or service.
- Establish broad, quantifiable objectives for the devolved program or service and hold the counties accountable for the results, trusting the current county statutory framework to provide accountability. This will require the development of performance-measurement systems within the counties so that outcomes can be compared to other counties or state agencies. In a devolved policy area, rulemaking authority by state agencies should generally be limited to rules related to data needed for performance measures.
- Allow some counties, on a voluntary basis, to accept funding and authority from a state agency, while other counties do not. In those other counties, the state agency should continue to administer and provide the service or program.
- Ensure that counties have a necessary level of regulatory independence, as well as adequate resources with which to take on additional authority and responsibility for state programs.
- Require counties to improve and modernize county management practices so that counties can provide consistent, reliable information on a real-time basis.
- Require the Sunset Advisory Commission to consider, during all Sunset reviews of state agencies, whether all or part of the services provided by that agency could be devolved to the county level.
- Authorize counties to adopt limited land-use regulations after approval by local referendum. This will allow the county government to make sure that growth happens in a way that protects the quality of life and property rights of all members of the community.
- Authorize counties with a population of one million or more to adopt minimum construction code standards.

### **Charge**

**Examine ways that county governments, education institutions, service organizations, and local state agency offices can coordinate their efforts to address**

## **INTERIM DIGEST HOUSE COMMITTEE ON COUNTY AFFAIRS**

**the problems of at-risk youth at the local level. Report on successful programs that might serve as models for others.**

### **Recommendations**

#### ***The Court System***

- Establish two pilot Class C Misdemeanor Justice Juvenile Courts, one in a rural county and one in Harris county.

place the court in a building surrounded with social service agencies serving youth, especially at-risk youth.

implement the pilot courts using a TRIAD-like structure (collaboration between social service and law enforcement agencies) to ensure a team approach to working with youth entering the courts. Make the focus of the TRIAD the identification of the underlying causes of the youth's offense for and the procurement of services to help the youth with the identified problems.

provide two years of funding for the pilot courts and require measurement of the outcomes during that time.

- Authorize justices of the peace to seal juvenile records and to expunge records.
- Increase from two times to four or five times, the number of times a juvenile may be convicted in a justice of the peace court prior to requiring the case to be transferred to juvenile court.
- Authorize justices of the peace to refer a minor, without the approval of the municipal court, to a municipal court teen court program if the minor is a resident of that municipality.

#### ***State Grant Programs***

- Increase funding for the Community Grant Support Initiative(CGSI) to \$450,000 per year to provide statewide assistance to all Texas communities in need of grant funding.
- Increase awareness of grant availability for youth programs by encouraging all health and human services state agencies and regional Councils of Government (COGs) to create a link to the state grants team and the CGSI on their websites.

#### ***Model Programs***

- Fund at \$7 million the implementation of the new 2-1-1 Network. 2-1-1 is a universal number for accessing information about community resources including food banks, job and education programs, assistance for seniors, volunteer opportunities, and other social services.
- Encourage divisions within the Health and Human Services Commission that have a need for a student's confidential school record to discuss with the Texas Education

## INTERIM DIGEST

### HOUSE COMMITTEE ON COUNTY AFFAIRS

Agency the development of a permission form for obtaining parental consent to share a child's education record for the purpose of determining the child's eligibility for a specific assistance program.

- Urge the Department of Protective and Regulatory Services (DPRS) to write and publish a guidebook similar to the governor's criminal justice division's newly published *Guide to Grants* booklet. The purpose of the booklet is to explain the grant process and programs available through the agency in easy-to-understand language. The booklet should be made available to local community agencies and COGs interested in at-risk youth programs.
- Urge the governor's criminal justice division to fund a pilot project for case managers in four justice of the peace and municipal courts. Two of the pilot projects should be in counties with populations under 150,000.
- Require the judges to have additional qualifications in order to assess suitable court orders and sanctions.
- Require the case managers to collect data and statistics to measure the success of the pilot programs and to report to the governor's criminal justice division.
- Encourage DPRS, in conjunction with the United Ways of Texas, to develop a multi-agency and local effort to convene community groups in five non-urban areas interested in at-risk youth. The groups would assess the communities' needs and build a plan for the community to assure a continuum of services for youth at risk of entering the criminal justice system.
- Replicate the "Jeffersonian Model" (a highly collaborative community services model) of services to at-risk families and youth, administered through the Texas Institute for Educational Partnerships (TIEP), throughout the state. Provide funding for TIEP to host ongoing conferences to address issues relating to at-risk youth, grant development, education-based housing, alignment of public schools, community colleges, universities, and industry, school-to-career academics, sustainable economic development issues, and community development.

#### Charge

**Examine the extent to which city and county governments have voluntarily consolidated and streamlined operations through interlocal agreements. Determine the impediments to greater use of such agreements and assess whether voluntary consolidation of operations should be a first step before any further consolidation is permitted.**

#### Recommendations

- Include the use of alternative dispute resolution procedures under the Interlocal Cooperation Act.

## **INTERIM DIGEST HOUSE COMMITTEE ON COUNTY AFFAIRS**

- Provide incentives for interlocal cooperation by prioritizing interlocal agreements for grant funding, supporting interlocal demonstration projects, and providing a clearinghouse where interlocal agreements could be shared.
- Allow interlocal agreements to exceed one year, after public notice, hearings, and voter approval by referendum. This is similar to the procedures for issuing certificates of obligation.

### **Charge**

**Conduct active oversight of the Texas Commission on Jail Standards.**

### **Recommendations**

- Research the feasibility of constructing regional county jails to help smaller counties defray administrative costs.
- Create a pilot regional mental health jail to provide services to mentally ill inmates that might not otherwise be available to county inmates.

**HOUSE COMMITTEE ON CRIMINAL JURISPRUDENCE**

**Charge**

**Review criminal procedure issues concerning the detention and arrest of Mexican citizens in Texas and Texas residents in Mexico. Include issues surrounding the abduction of children into Mexico.**

**Background**

At present, there is no legislation in Texas addressing the problem of international detainment. The United States State Department currently applies the rules under the Vienna Convention for any U.S. citizen detained in Mexico. Specific to the abduction of children, the 76<sup>th</sup> Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act (Article 152.302, Texas Family Code) which establishes first priority to a child's home state in determining jurisdiction, enforcement of custody and visitation decrees outside Texas, and temporary emergency jurisdiction of endangered children.

**Recommendations**

- Introduce legislation that would empower the Office of the Attorney General (OAG) to develop a special unit to assist international detainees.
- Adopt legislation similar to that found in California's Family Code, which empowers the State Attorney General's Office to forward child abduction cases to the appropriate district attorney's office.
- Consider the adoption of language from the International Parental Kidnapping Crime Act of 1993 (18 U.S.C.A., Section 1204) into the Texas Penal Code.

**Charge**

**Examine the criminal procedure statutes in relation to the issue of record expungement for people who have had criminal charges filed against them and the charges were later dismissed.**

**Background**

In Texas, a person is entitled to an expunction of such criminal records by following certain legal procedures (Chapter 55.01, Right to Expunction, Texas Code of Criminal Procedure). According to court clerks and attorneys, the Code is in need of revision to correct contradictory or confusing language. Privacy issues also arise as private companies utilize the Open Records Act to purchase criminal information and place it into readily accessible Internet databases for profit. Though an individual may have been granted an expunction and followed the appropriate steps, his or her criminal records may continue to exist in cyberspace.

**Recommendations**

- Allow agencies adequate time to address and/or contend an expunction request.
- Send a copy of the petition, rather than the notice of the expunction hearing, to the Texas Department of Public Safety (DPS).
- Attach to the petition all paperwork from the court to avoid incomplete information.
- Allow individuals who complete their sentences and probation the opportunity to get a license or practitioner certificate.
- Notify the county attorney's office of expunction hearings.
- Clarify current contradictory language, which fails to allow an individual to have an expunction for an acquittal because the statute prohibits the district court to do so.
- Expunge the records of those individuals who have been wrongfully accused.
- Expunge the records of those cases that are dismissed for reason of insignificant evidence.
- Expunge the records of those individuals whose identity was stolen and used for fraudulent circumstances.
- Expunge the records of individuals who were charged rather than arrested.
- Consider expunction for those individuals who committed a crime a set number of years ago, but have shown model citizenry (excluding crimes higher than a Class A misdemeanor or violent offense).
- Avoid granting expunction for deferred adjudication.

## INTERIM DIGEST

### HOUSE COMMITTEE ON CRIMINAL JURISPRUDENCE

- Disallow granting expunction for those individuals who participate in pretrial diversion or intervention programs.
- Consider sealing expunged records for future investigative purposes accessible only to law enforcement agencies.
- Consider whether the agencies listed under the Texas Government Code should continue to have access to criminal records or whether these records should be sealed and only used by law enforcement agencies.
- Create a procedure for Internet companies, such as publicdata.com, to comply with a mandatory removal of an expunged criminal record or risk prosecution and liquidated damages.
- Increase the duplication fee for criminal records.
- Require the petitioner to pay the notice fee and court fee up front, prior to the court hearing.

#### Charge

**Review the actions other states have taken in regard to execution of persons who are mentally retarded. Consider the effects on all aspects of the criminal justice system of laws that prevent or severely restrict executions.**

#### Background

Applying the Eighth and Fourteenth Amendments of the U.S. Constitution, the U. S. Supreme Court has held that a person who is mentally incompetent must not receive the death penalty. Similarly, Texas “prohibits a person who is incompetent to be executed from being executed” (Article 46.04, Texas Code of Criminal Procedure). In the 1989 *Penry v. Lynuagh* decision (492 U.S. 302), the court held that juries must be allowed to consider mitigating evidence, such as retardation, when deciding whether a defendant should be given the death penalty or sentenced to life in prison.

## INTERIM DIGEST HOUSE COMMITTEE ON CRIMINAL JURISPRUDENCE

Eleven states, not including Texas, have gone beyond the court's prohibition of execution for the mentally incompetent and passed legislation expressly prohibiting the execution of offenders who are "mentally retarded." The statutory definitions of mental retardation are similar and take into consideration the offender's impairment in adaptive behavior that is manifested during the "developmental period," typically prior to age 18.

Texas uses the concept of adaptive behavior to determine an individual's lack of cognitive or moral capacity. Under Section 591.003 of the Texas Health and Safety Code, adaptive behavior refers to a person's standard of independence, and social responsibility is compared to the person's general age and cultural group. Currently, Texas does not clearly define when the developmental period in adaptive behavior begins.

### Recommendations

- Make "clear and convincing evidence" the burden of proof standard used for finding evidence of mental retardation.
- Clarify the current statutory term "developmental period" for adaptive behavior before the age of 18 years.
- Allow a judge, during a pretrial hearing, to determine whether a defendant is mentally retarded and, if determined mentally retarded, prohibit the judge from conducting a jury trial or a sentencing trial. The court, therefore, may sentence the defendant with mental retardation to a life sentence.
- Allow the defendant, if the judge finds the defendant not to be mentally retarded, to present pretrial screening evidence to the jury of existing retardation. The jury can then decide whether the defendant is mentally retarded by clear and convincing evidence.
- Require the state to mandate agencies to comply with the current statute regarding information sharing between the Texas Departments of Criminal Justice and Mental Health and Mental Retardation before offenders enter the criminal justice system.
- Introduce legislation similar to that of Nebraska, whereby those sentenced to death, before the enacted date, have 120 days after the effective date to request an evidentiary proceeding. Those offenders charged after the effective date must file a motion alleging mental retardation.



**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT**

**Charge**

**Assess the strengths and weaknesses of local workforce development boards and their capacity to provide effective training and job services. Include a review of the boards' monitoring and verification of contractor performance and reports. Assess the workforce development system's effectiveness in the areas of (a) the TANF population, (b) dislocated workers, (c) persons with disabilities, and (d) the high-technology workforce.**

**Background**

In 1995, with the passage of H.B. 1863, a new workforce development system was established in Texas, which created the Texas Workforce Commission (TWC). The system included the consolidation of 28 workforce related programs from 10 state agencies and a local control model enabling community leaders to develop the workforce needed for their area through Local Workforce Development Boards (LWDBs). The legislation provided for employment, training, and child care funds through state block grants to career centers established by the LWDBs as a point of contact for all services.

With the passage of the federal Workforce Investment Act of 1998 (WIA), Congress directed the states to complete implementation by July 1, 2000. Texas completed its workforce restructuring effort early. There are 28 LWDs in Texas, all certified by the federal government and operational. Local one-stop centers provide for employment and training needs to be offered at a single location for adults, dislocated workers, and youths.

**Recommendations**

- Direct TWC to examine the utilization of FTEs by local boards, particularly in areas of performance measurement, financial management, childcare, and contract management.
- Require boards to participate in a certain amount of outreach activities sponsored by TWC.
- Develop a detailed yet understandable plan for the boards regarding the sanction process.
- Provide substantial training to the local workforce center staff and board members regarding the collection and analysis of data in The Workforce Information System of Texas (TWIST) system for performance reports.
  
- Develop a plan addressing the lack of local service providers participating in certain board areas.
- Collaborate with the LWDBs when determining use of funds at the local level.

## INTERIM DIGEST

### HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

- Review and adjust the performance measurements used to evaluate the LWDBs.
- Direct TWC, the Texas Rehabilitation Commission, and the Texas Commission for the Blind, to strengthen their cooperative efforts in providing assistance and suggestions to the LWDBs on serving persons with disabilities.
- Direct TWC and the Texas Department of Human Services (DHS) to develop a cooperative process among their systems in order to provide the LWDBs with access to data that determines their progress and sanctions.
- Submit a resolution to the U.S. Congress regarding the current federal mandated performance measures and suggest how these measurements can be changed to better serve the local boards and their communities.

#### Charge

**Actively monitor the status of the unemployment insurance compensation trust fund and study the mechanisms in current law designed to keep the fund in the desired range.**

#### Background

The unemployment system is a federal-state partnership. Employers contribute to the Unemployment Insurance Trust Fund (fund) and the fund serves as a temporary income source for unemployed workers in Texas. If the state meets certain federal guidelines, it receives a credit that is used to offset the tax rate that employers normally pays; however, if the state does not meet the guidelines, the tax rate can increase to 6.2 percent from 5.4 percent, which increases the amount that flows into the fund. Additionally, the Smart Jobs Holding fund used by our UI system is under review due to deficiencies discovered during audits.

#### Recommendations

- Consider the effects that the replacement of the Standard Industrial Code (SIC) classification system will have on the Unemployment Insurance (UI) system.
- Consider averaging the UI Trust Fund balance for the year instead of having it determined by one day, normally September 1 and October 1 to determine fund solvency and transfers.
- Extend the Smart Jobs evaluation to facilitate the **continued funds for job training**, which currently has an expiration date of December 31, 2001.
- Consider a resolution to send to the U.S. Congress regarding Texas' level of federal unemployment tax reimbursements, which is currently inadequate.

#### Charge

## **INTERIM DIGEST HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT**

**Review current programs and examine other options for preparing students who do not seek advanced degrees for jobs in today's economy.**

### **Background**

According to the U.S. Department of Commerce, Bureau of the Census, 82 out of every 100 students in the U.S. will not go on to receive a bachelor's degree. In 1998, 56 out of every 1,000 private sector workers in Texas were employed by high-technology firms with the average wage at \$60,265 compared to the remaining private sector average wage of \$32,090. High technology industries are projected to add 101,000 jobs to the Texas economy over the next five years. Forecasters predict knowledge-based industry will become the economic driver of economies in the future.

### **Recommendations**

- Increase awareness of career and technology programs.
- Grant TWC the authority to develop a stronger career and technology program for participants of welfare-to-work.
- Explore the possibility of specifying a portion of Skills Development Fund grants for use in rural areas.
- Explore the use of Skills Development training funds for community colleges to increase career and technology training.
- Review the Texas Skill Standards Board's mission.
- Authorize an agency to serve as the linking agent between business/industry and educational entities.
- Require local workforce boards to be composed of at least one member of a School-to-Careers board member from the area.
- Encourage mechanisms that give local workforce boards incentives for having successful career and technology programs in their area.

### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

### **Background**

The Texas Aerospace Commission (TAC) represents both the aviation and space industries. Funds for the agency's operations come from appropriated funds for economic development in accordance with the General Appropriations Act, revenues from the sale of a special motor vehicle state license plate, and grants and donations from private and public sources. TAC's mission is to serve the citizens of Texas through development of economic opportunities in the fields of space and aviation. Texas is one

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT**

of several states being considered for the location of a commercial spaceport. Interested firms are considering sites in Brazoria and Kenedy Counties.

#### **Recommendation**

- Consider the beneficial impact of a spaceport on the state. The actions by many other states indicate the significant effect such a project will have on the state's economy. The state that is able to obtain the spaceport will become a global leader in commercial space transportation and revolutionize the vast opportunities that space is sure to create in the decades to come.

#### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

#### **Background**

The Texas Department of Economic Development (TDED) is the agency responsible for the administration and operation of the Smart Jobs Program. The agency is currently undergoing the Sunset Advisory Commission's review process, which will be finalized during the 77<sup>th</sup> Legislature. A State Auditor's (SAO) report revealed several deficiencies in the Smart Jobs program. With the passage of H.B. 3657 last session, many aspects of the Smart Jobs Program were changed. However, due to internal problems disclosed by

the SAO report, the House Appropriations and Senate Finance leadership decided to freeze the program's funds.

#### **Recommendation**

The subcommittee made no recommendations at this time since the agency is in the midst of the Sunset review process.

**HOUSE COMMITTEE ON ELECTIONS**

**Charge**

**Review and assess all issues related to the financing of campaigns, including so-called “soft-money” and other funds whose source is unclear, the influence of out-of-state political action committees, and so-called “late train” contributions.**

**Recommendations**

- Require a contributor’s occupation to be recorded on reports and a filer to make the best effort to comply with the requirement, if the information is not provided by contributor.
- Require the name of employer and occupation of contributors of \$500 or more.
- Require out-of-state PACs to report as in-state PACs.
- Require issue advocacy groups (527s) to disclose contributors and expenditures.
- Require cash on hand balances for each report.
- Define promises and offers of contributions, and require inclusion of same in contributor reports.
- Define coordinated contributions and include in reports.
- Increase the penalty for intentional failure to file to a Class A misdemeanor.
- Allow only one principal campaign committee for candidates for statewide office, the legislature, the State Board of Education, and the appellate courts.
- Allow only one principal campaign committee for all candidates for public office, including local offices.
- Require a description of in kind contributions in reports.
- Require itemization of contributions and expenditures of more than \$100, rather than more than \$50 (current law).
- Require the listing of outstanding loans valued at more than \$100 at the end of the reporting period.

## **INTERIM DIGEST HOUSE COMMITTEE ON ELECTIONS**

- Expand the loan reimbursement restriction in current law to include not only personal loans from the candidate, but also loans by financial institutions or others guaranteed or backed by the candidate or his/her family.
- Expand the late reporting period (between 9<sup>th</sup> and 2<sup>nd</sup> day before the election) requirements to include opposed statewide candidates who receive contributions from a person for more than \$1,000, general purpose committees that receive contributions for more than \$5,000 from a person, and other committees required to file with the Texas Ethics Commission that receive contributions from a person for more than \$5,000.
- Require, in the late reporting period (between 9<sup>th</sup> and 2<sup>nd</sup> day before the election), direct expenditures for more than \$5,000 to be reported within 24 hours of the expenditure. Reports must include the amount and purpose of the expenditure and the occupation of the recipient. Expenditures made by political parties for more than \$5,000 within this time frame are not included.
- Require reporting of the contributors, or business entities in which they have a substantial interest (10% or more), who have executory contracts with the agency of the official receiving the contribution.
- Require PACs to report administrative expenses, if they exceed \$100.
- Require political parties to compile and report aggregate totals of contributions and expenditures made on behalf of candidates and officeholders.

### **Charge**

**Examine the benefits of reducing and changing the dates of uniform elections.**

### **Recommendations**

- Repeal exceptions to uniform election dates allowing local option elections under the Alcoholic Beverage Code, elections to levy taxes or issue bonds, elections held by political subdivisions using the convention method of election, and recall elections.
- Continue to use May or November dates for electing of school board members.
- Move the current August date to the 2nd Saturday in September.
- Move the current January date to the 1st Saturday in February.
- Ensure statutorily that the cost of consolidated elections is reasonable to participating taxing authorities that are not in charge of holding the election.

### **Charge**

## **INTERIM DIGEST HOUSE COMMITTEE ON ELECTIONS**

**Examine the procedures for early voting by mail, including simplification of the application, deadlines, distribution of lists, and similar matters. Consider methods to make voter registration rolls more accurate and easier to use.**

### **Recommendations**

No recommendations were made

### **Charge**

**Review Title 15, Election Code, to consider changes to make it easier to understand and follow.**

### **Recommendation**

- Rewrite the Election Code during the interim following the 77<sup>th</sup> Legislature.

### **Charge**

**Assess the need for better accommodation of voters with visual impairments.**

### **Findings**

Texas Secretary of State Elton Bomer created the Elections Accessibility Task Force to provide guidance on accessibility issues arising from the enactment of H.B. 1053, 76th Legislature, requiring voting systems acquired after September 1, 1999 be accessible and provide a practical effective means for voters with physical impairments to cast a secret ballot. On August 30, 2000, the results of this task force were adopted into the Texas Administrative Code. In view of Mr. Bomer's efforts in this regard, the committee deferred to the work of the task force and endorsed its findings.

**HOUSE COMMITTEE ON ENERGY RESOURCES**

**Charge**

**Assess the state's well plugging and site remediation program to determine if the current funding mechanism and program operations are addressing the state's obligations efficiently. Examine the current financial assurance mechanisms required by the Texas Railroad Commission (RRC) for new drilling operations to determine whether they are sufficient to cover current and future well plugging costs. Evaluate the feasibility of creating a voluntary cleanup program, similar to the program created at the Texas Natural Resource Conservation Commission (TNRCC), for oil field sites under the jurisdiction of the RRC. Conduct oversight of the agencies under the committee's jurisdiction.**

**Background**

Unplugged or improperly plugged oil and gas wells pose a threat to both surface and subsurface waters. The growing number of marginal wells coming out of production, many of which were last operated by thinly capitalized operators, frequently leaves the state with the dual responsibility of plugging the wells and cleaning up the sites. The RRC's Oil Field Cleanup Fund faces increasing demands, yet does so at a time of tightening fund balances.

**Recommendations**

- Tighten rules regarding financial responsibility of oil and gas operators.
- Increase the amount of the RRC's Oil Field Cleanup Fund.
- Create a voluntary cleanup program under the RRC's jurisdiction.

Model the program after the TNRCC's Voluntary Cleanup Program.

Charge processing and review fees to operators or other entities that voluntarily conduct complex pollution cleanup activities.

Direct money received from fees to the Oil Field Cleanup Fund.

Structure the fee schedule to assure an expedited review for participating parties.

Designate the Office of General Counsel, RRC, to review and prepare limited release of liability from the state for qualifying participants.



# **INTERIM DIGEST HOUSE INTERIM COMMITTEE ON ENVIRONMENTAL REGULATION**

## **HOUSE COMMITTEE ON ENVIRONMENTAL REGULATION**

### **Charge**

**Identify program options in all areas of the state for achieving and maintaining compliance with federal air quality requirements while preserving the potential for economic growth. The review should consider the effects of projected population growth on transportation.**

### **Background**

The federal Clean Air Act amendments of 1990 require air quality in the United States to meet certain standards deemed acceptable to protect human health and welfare. Congress directs the governor of each state to submit a list of regions which fail to meet the federal air quality standards promulgated by the Environmental Protection Agency (EPA). In shifting the burden to the states, Congress has made air pollution prevention the primary responsibility of states and local governments. If Texas fails to comply with EPA standards, federal law requires the agency to directly implement its own program here, with the possible imposition of severe sanctions. One of the greatest problems is that although compliance with federal clean air standards will provide notable public benefits, it will cost the private sector several hundred million dollars.

### **Recommendations**

- Make every effort to comply with the federal Clean Air Act.
- Move forward with a clean air plan, but dutifully continue searching for better methods to reduce air pollution. The legislative removal of any current statute or administrative regulation reducing air emissions should be replaced with a control strategy reducing air emissions by the same amount.
- Consider the options of providing financial and tax incentives to individuals and businesses in order to encourage voluntary steps toward air emissions reductions and to mitigate the direct cost of compliance.

### **Charge**

**Determine the ramifications surrounding the handling, processing, and disposal of low-level radioactive waste within the borders of the state as they relate to Compact waste, non-Compact waste generated by the federal government, mixed waste, and licensing of private or state entities. Review related policies of the Department of Health to determine consistency with other states' regulations.**

# **INTERIM DIGEST**

## **HOUSE INTERIM COMMITTEE ON ENVIRONMENTAL REGULATION**

### **Background**

Radioactive waste results from the use of radioactive materials and is either naturally occurring or produced by man. Naturally occurring radioactive material (NORM) comes from the decay of unstable elements in rock, soil, and from space. Radioactivity produced by man is the product of two types of nuclear reactions in uranium: fission and neutron-absorption. Most of the exposure we receive from non-natural sources of radiation is incurred in medical diagnosis and therapy.

Responsibility for regulation of radioactive waste in Texas today is divided between the federal government and three state agencies, depending on the type of waste involved. High-level waste generated by the use or reprocessing of nuclear fuel is regulated by the United States Department of Energy. Low-level radioactive waste includes all radioactive wastes that are not high-level, concentrated transuranic waste or TRU, (produced from reprocessing spent fuel and from plutonium in fabrication of nuclear weapons), naturally occurring, or oil and gas NORM waste. Within Texas, disposal of this low-level radioactive waste is regulated by the Texas Natural Resources Conservation Commission (TNRCC), and processing is regulated by the Texas Department of Health (TDH). The Railroad Commission (RRC) regulates the disposal of oil and gas NORM waste.

Through its Bureau of Radiation Control (BRC), TDH has regulatory and oversight responsibility for the safe use of radiation in industry, medicine, and research. The two main divisions within BRC are known as Licensing, Registration, and Standards, along with Compliance and Inspection.

The Texas Radiation Advisory Board (TRAB) makes recommendations to these state agencies, and furnishes technical advice on development, use, and regulation of sources of radiation.

Texas, Maine, and Vermont are parties to the Texas Low-Level Radioactive Waste Disposal Compact (Compact) that was ratified by the U.S. Congress in 1998 and provides for the management and disposal of low-level radioactive waste, or “Compact waste.” To comply with the Compact, Texas must develop and have full administrative control over the development, management, and operation of a facility for the disposal of low-level

radioactive waste generated within the party states. With regard to “non-Compact” waste, the TNRCC is responsible for licensing low-level radioactive waste disposal facilities, but current law prevents it from licensing a private entity. Supporters of this restriction believe that since the State of Texas is already responsible for Compact waste, it might as well be in charge of non-Compact waste also. They also argue that the state would be in existence longer than a private entity. Those who favor licensure of a private facility argue that the ability to accept non-Compact waste could mean lower disposal costs for all. In addition, licensing a private entity could avoid the conflict of interest within TNRCC, which currently acts as both the facility operator and enforcement agency for low-level radioactive waste.

### **Recommendations**

# INTERIM DIGEST

## HOUSE INTERIM COMMITTEE ON ENVIRONMENTAL REGULATION

- Hold the license and/or permit for the Compact disposal facility since it bears ultimate responsibility for Compact low-level radioactive waste disposal.
- Keep current policies of TDH related to extremely low-level radioactive waste.
- Authorize BRC to assess administrative penalties against individual violators and unlicensed entities.
- Memorialize the U.S. Congress to pass legislation necessary to protect public health and safety regarding low-level radioactive waste and other hazardous waste that may be involved in bankruptcy proceedings.
- Carefully consider the loss of staff at BRC resulting from the expected retirement of approximately half its employees over the next five years.

### Charge

**Assess the merits of the current program transferring one-half of the solid waste tipping fee to councils of government (COGs) to be dispersed for local solid waste projects.**

### Background

In order to fund the management, permitting, and enforcement of solid waste programs, the Texas charges a “tipping fee” on solid waste disposed of within its borders. By statute, the legislature dedicates one-half of the tipping fee revenue to General Revenue Account 0549—Waste Management, used by the Texas Natural Resources Conservation Commission (TNRCC) for administration and operation of solid waste management programs. The other one-half is similarly dedicated to General Revenue Account 5000—Solid Waste Disposal Fee, for use in local and regional solid waste planning and solid waste projects. It is also used for grants administered through regional planning commissions, generally referred to as COGs.

### Recommendations

- Monitor the regional solid waste grant program to be able to determine whether the intent of the program has been fulfilled and the cost of the program outweighs the benefits.
- Consider eliminating the solid waste grant program and the corresponding half of the solid waste tipping fee. Alternatively, consider allowing a local government to collect an optional local solid waste tipping fee for local solid waste projects.
- Clarify the authority of TNRCC and local governments to prohibit illegal solid waste disposal and dumping, and provide adequate resources to do so.

## **INTERIM DIGEST HOUSE INTERIM COMMITTEE ON ENVIRONMENTAL REGULATION**

Include illegally discarded waste tires in any increased enforcement initiatives.

Increase the role of the solid waste grants program and COGs in direct enforcement efforts.

- Clarify and distinguish between the following different types of solid waste facilities for authorization:
  - recycling facility;
  - transfer facility;
  - solid waste disposal facility; and
  - other waste facilities that may attract illegal dumping.
- Apply the same prohibitions against lobbying the legislature for state agencies or other entities receiving funds to COGs.

# **INTERIM DIGEST HOUSE INTERIM COMMITTEE ON ENVIRONMENTAL REGULATION**

## **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

## **Background**

House Rules charge the committee with jurisdiction over the following: air, land, and water pollution, including the environmental regulation of industrial development; the regulation of waste disposal; environmental matters that are regulated by the Texas Department of Health; oversight of the Texas Natural Resources Conservation Commission (TNRCC) as it relates to environmental regulation. The committee also has jurisdiction over the following agencies: the Texas Agriculture Resources Protection Authority; Texas Low-Level Radioactive Waste Disposal Compact Commission; and the Texas Low-Level Radioactive Waste Disposal Authority.

## **Recommendations**

No recommendations were made. TNRCC is currently under review by the Sunset Advisory Commission.

**HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS**

**Charge**

**Determine the extent to which personal customer and account information may be accessed or furnished to governmental institutions, other divisions or affiliates of a financial institution, and unrelated commercial or other enterprises. Assess the state's ability to assure customers the privacy of their information.**

**Background**

Privacy of information, be it financial or otherwise, has become one of the most frequently discussed policy topics currently debated across the country. A recent study by the National Consumers League shows that consumers rank “loss of personal privacy” second only to “education” as the major public policy issue of concern. The specific types of online information ranking high on their list were credit card numbers, social security numbers, and information about their financial assets.

Nine separate legislative committees of the Texas Legislature alone are studying various aspects of privacy; this fact identifies privacy as a major issue in the current legislative landscape, according to the committee's text. Caution and prudence have been stressed to avoid any unforeseen and unintended consequences.

**Recommendations**

- Codify in statute the privacy requirements pertaining to personal financial information as established in the Gramm-Leach-Bliley Act (GLBA). State law should mirror federal law to ensure local enforcement of these requirements. Regulatory authority should be given to the state agencies that currently regulate the various entities affected. If entities are currently unregulated, determinations should be made as to the most appropriate regulatory agency as it pertains to financial privacy.
- Study health and medical information privacy via the various house and senate committees that are currently studying this information.
- Reserve to the committee the right to act until such time as the effectiveness of market implementation of GLBA requirements is determined, keeping the rights of consumers and their privacy rights can be achieved under GLBA.

**Charge**

**Research the practices commonly known as “payday loans” and “sale leasebacks” to determine the need to regulate such transactions.**

**Background**

## **INTERIM DIGEST HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS**

These transactions were brought to the attention of the 76<sup>th</sup> Legislature, and there was considerable testimony from proponents and opponents alike without reaching a conclusive legislative solution. The result has been the illegal operation of unauthorized lenders making usurious loans to consumers with annual interest rates potentially in excess of 800 percent, according to the report. Furthermore, some of these illegitimate lenders used local law enforcement and criminal justice systems as their collection agencies. The repayment of initial loan amounts by the issuance of “hot checks” was the practice that initially attracted the attention of local elected officials. Five bills were filed in both chambers in an attempt to address the problem caused by illegal payday lending practices. Other varieties of similar transactions include “sale leasebacks,” “cash back ads,” and catalog sales.

### **Recommendation**

- Subject small consumer loans commonly known as payday loans should be subject to licensure and regulation, either by codification of Rule 7, Texas Administrative Code, Section 1.605, authorized by the Texas Finance Commission, or by passage of separate legislation authorizing an additional rate structure for loans obtained through the practice of using a check as collateral.

### **Charge**

**Review the federal “financial services modernization” act (H.R. 10, or GLBA) to identify necessary changes to state laws and regulations governing insurance and financial institutions. This review is to be conducted jointly with the House Committee on Insurance.**

### **Background**

The passage of the Gramm-Leach-Bliley Act (GLBA), or the Financial Services Modernization Act, allows for banks, insurance companies, and securities firms to engage

in common ownership through affiliations or holding company structures. Since 1934, federal law had prohibited affiliations between commercial banks and securities firms. Likewise, federal law had separated banks and insurance companies since 1955.

GLBA eliminates pre-existing federal and state laws that prevent common ownership of entities that engage in insurance, securities, and banking activities. Additionally, GLBA pre-empts state agent licensing laws that prohibit or interfere with a depository institution’s ability to sell insurance.

### **Recommendations**

- Revise and reintroduce S.B. 956, 76<sup>th</sup> Legislature, vetoed on unrelated grounds, to fully implement uniform and/or reciprocal agent licensing between Texas and other states.

## INTERIM DIGEST

### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

- Shorten to 60 days the period for Texas Department of Insurance (TDI) to review proposed affiliations between depository institutions and insurers.
- Conform Section 59.202, Finance Code, to the ATM Fee Reform Act of 1999.
- Amend the Texas Finance Code, Insurance Code, and Securities Act to effectively protect the confidentiality of information shared among regulatory agencies.
- Protect confidential information of insurance company data by prohibiting the information from becoming public under the Open Records Act when shared with another regulatory entity.
- Clarify the authority of state banks to conduct certain activities to the extent consistent with safety and soundness, functional regulation, and consumer protection principles.
- Allow TDI to adapt its regulatory practices to respond to market changes and allow competition by financial institutions.
- Clarify the authority of state banks to conduct certain activities to the extent consistent with safety and soundness, functional regulation, and consumer protection principles.
- Preserve the authority of a grandfathered “unitary thrift” operating in Texas.
- Enhance and preserve the state trust company charter and allow these entities to remain competitive by permitting state trust companies to engage in certain financial activities.
- Facilitate the ability of a bank holding company to become a financial holding company and thus engage in expanded nonbanking activities as allowed under GLBA.

#### Charge

**Conduct a review of the home equity lending market, including lender activities and practices, to assess the extent to which the expectations of the 75<sup>th</sup> Legislature are being met.**

#### Background

For the first time in the history of Texas, the Texas Constitution was amended to allow homeowners to use the equity in their homes as collateral in a loan. Historically, the homestead protections in the Texas Constitution have protected Texas homeowners from losing their homes for all but a few specific reasons. Under house Joint Resolution 31, authored by L. P. “Pete” Patterson in the 75<sup>th</sup> Legislature, homeowners were allowed to obtain home equity loans by borrowing money against the equity in their home.



## **INTERIM DIGEST HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS**

Several consumer protections included a variety of restrictions and are considerable, including limits on the amount that may be loaned; non-resource loans, which restricts lenders from accessing the borrower's personal finances to repay the loan; judicial foreclosure proceedings; fee caps; and other protections.

### **Recommendation**

- Regulate the structure of home equity transactions due to changing market dynamics, with rulemaking authority given to the appropriate regulatory entity.

### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

### **Background**

The agencies under the jurisdiction of the committee include the Finance Commission of Texas, the Credit Union Commission of Texas, the Banking Department of Texas, the Office of Consumer Credit Commissioner of Texas, the Savings and Loan Department of Texas, The Texas Public Finance Authority, and the Texas Bond Review Board.

As part of this oversight, the committee heard testimony from several agencies as well as attended agency meetings. In addition, four agencies are undergoing review by the Sunset Advisory Commission. (Finance Commission, Banking, Consumer Credit, and Savings and Loan.)

### **Recommendations**

No recommendations were made.

**HOUSE COMMITTEE ON GENERAL INVESTIGATING**

**Charge**

**Investigate allegations of excessive use of crowns and other aggressive dental procedures by certain providers in the Medicaid program.**

**Background**

The committee did find some evidence of fraud in the Texas Health Steps (THSteps) Dental Services Program. Various procedures and certain billing codes offer providers the chance to defraud the dental program without fear of punishment or repercussion. While the Texas Department of Health (TDH), the Health and Human Services Commission (HHSC), and the National Heritage Insurance Company (NHIC) all have controls in place to detect potential provider abuses in the THSteps program, there is a reluctance to adequately investigate, prosecute, and punish abusive providers.

**Recommendations**

- Closely examine the reimbursement rates paid by Medicaid to dental providers, especially for the most commonly billed dental procedures.
- Use stainless steel crowns only when medically necessary, in accordance with Medicaid regulations. TDH and HHSC should immediately comply with federal laws and regulations.
- Institute a policy requiring providers to document to TDH and HHSC the need for any stainless steel crown before that crown is placed.
- Adopt a minimum standard of documentation and record keeping that applies equally to all patients, regardless of their pay status. TDH and HHSC should work with the Board of Dental Examiners to achieve this.
- Reduce the \$75.00 fee for hospitalization and redistribute the funds into the other most commonly billed procedures.
- Immediately replace the 15-point system with a more objective, comprehensive, and realistic system for determining the medical necessity for hospitalization and general anesthesia.
  
- Immediately eliminate the \$50.00 behavior management fee and redistribute the funds into other commonly billed procedures for which there is documentation, oversight, accountability, and an objective set of criteria.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON GENERAL INVESTIGATING**

- Immediately eliminate the \$15.00 nutritional consultation fee and redistribute the funds as described above.
- Urge HHSC to refocus its efforts to eliminate fraud from the dental Medicaid program. The commission should adopt a zero tolerance policy toward fraud and aggressively investigate and prosecute any providers who abuse the system. HHSC should resume the practice of randomly auditing providers, especially those providers whose Medicaid billing activities are excessive or fall outside their respective peer groups.
- Direct TDH, HHSC, and NHIC to do a better job of communicating and coordinating their administration and implementation of the dental Medicaid program.

#### **Charge**

**Investigate recent actions of the State Board of Education relating to its management of the Permanent School Fund.**

#### **Background**

The assets of the Permanent School Fund (PSF), now worth approximately \$22 billion, have grown impressively in recent years. Nonetheless, the committee has found evidence suggesting, at a minimum, that the appearance of a conflict of interest affects the State Board of Education's (SBOE) decisions on consultant and money manager selection, asset allocation, and broker-dealer eligibility requirements. The fact that financial relationships involving informal advisors to the Chair, the Vice Chair and another member of the SBOE's standing Committee on School Finance/Permanent School Fund have been undisclosed has limited the full SBOE's ability to safeguard its decisions from influence by self-interest. These relationships and decisions call into question the SBOE's ability to manage the PSF with the ordinary prudence required by the Texas Constitution, and this is eroding public trust in one of the major investing entities of the State of Texas, according to the report.

#### **Recommendations**

The following recommendations are made to restore prudence and public trust in the management of the PSF. It is equally important to ensure that conflicts of interest now affecting this major state investing entity are detected and sanctioned, so that similar problems do not occur in the future.

- Retain a consultant to perform a comprehensive review of PSF management practices, with periodic follow-up reviews.
- Amend the Constitution to create an appointed PSF investment board, separate from the SBOE. The jurisdictions of the SBOE would be limited to education policy.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON GENERAL INVESTIGATING**

Alternatively, establish an effective investment advisory committee, if the Constitution is not amended and the current SBOE structure is maintained. The investment advisory committee should be appointed by the governor, lieutenant governor, and the speaker of the house.

- Specify, in the Education Code, the minimum investment management qualifications for membership on the investment advisory committee.
- Require, in the Education Code, that members of the investment advisory committee be governed by the same rules regarding disclosure of conflicts of interest as are members of the SBOE.
- Require, in the Education Code, that the SBOE's rules governing conflicts of interest be expanded to cover any person or entity that applies for, or receives, anything of value as a direct or indirect result of PSF investments. These persons and entities should be classified as "interested parties" and brought within the scope of SBOE disclosure rules.
- Require, in the Education Code, that every interested party, as a condition of approval as consultant or money manager, sign a standard, non-negotiable contract, agreeing to be bound by all statutes and regulations, and acknowledging the SBOE's right to cancel any contract or other undertaking in the event the interested party violates board rules or state law.
- Require, in the Education Code, that every interested party, including "downstream" entities, as a condition of approval as a consultant or money manager or vendor of those entities, acknowledge that, if one interested party has an undisclosed relationship with another party, both or all those interested parties may have the contracts voided and their eligibility to conduct PSF business withdrawn.
- Urge SBOE to establish a frequently updated web site, on which PSF staff would post names and business addresses of all interested parties who receive, or who are eligible to receive, anything of value, directly or indirectly, as a result of PSF investment management.
- Designate the Legislative Audit Committee, the Commissioner of Education, Comptroller, Attorney General, or the Texas Ethics Commission, rather than SBOE members, to make the initial findings that an interested party has violated SBOE rules and refer complaints to the appropriate agency for enforcement.
- Debar any interested party who violates SBOE rules from contracting with both the PSF and any other interested party for PSF business, for a period varying from six months to 10 years, depending on whether the infraction is a first or subsequent violation.
- Urge the SBOE enter to into a Memorandum of Understanding under the Interagency Cooperation Act, to allow another agency to investigate alleged violations and enforce SBOE rules.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON GENERAL INVESTIGATING**

- Hold hearings on debarment and other sanctions at the State Office of Administrative Hearings.
- Require the agency performing SBOE's enforcement function to serve as liaison between the state's major investing agencies and the Securities and Exchange Commission, self-regulatory organizations such as the National Associations of Securities Dealers, and professional organizations such as the Association for Investment Management and Research to ensure close cooperation and information-sharing about disciplinary actions taken against consultants and broker-dealers doing business with, or seeking to do business with, the PSF.

#### **Charge**

**Review the security resources available to protect state employees and state buildings.**

#### **Background**

Although quantifying the level of risk for state buildings and employees is beyond the scope of the committee's review, the committee's survey of selected state agencies reveals real instances of workplace violence. The types of incidents identified show that no agency is immune from even the most serious types of violence.

Moreover, the results of the reviews conducted at the Capitol Complex revealed flaws and gaps in security and safety plans. Because these are possibly the most secure state buildings, failures here suggest similar situations may exist in other state buildings.

The measures taken by state risk managers and agencies to reduce risks associated with workplace violence are significant. However, gaps and flaws in existing plans render many plans less effective.

#### **Recommendations**

- Supplement the generalized training and resources currently held by Risk Management Specialists at the State Office of Risk Management (SORM) with specialized training in workplace violence prevention methods. SORM and other risk managers should tap into the Texas Engineering Extension Service's Law Enforcement Training Academy and its National Emergency Response and Rescue Training Center for specialized training.
- Develop a uniform and minimum standards guide on safe workplace requirements. Require these minimum standards to be considered and made a part of any future Facilities Master Plan developed by General Services Commission (GSC) or any other state agency responsible for planning future building or renovation projects. Moreover, minimum standards should be included for all new building leases and be included for existing leases up for renewal.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON GENERAL INVESTIGATING**

- Require each agency to report workplace violence incidents and threats to SORM on a semi-annual basis. Require SORM to develop an appropriate definition of workplace violence and the reporting standards for agency compliance.
- Require SORM to develop a Risk Management Guide that includes a uniform section that should be adopted by smaller state agencies lacking resources to develop an effective risk management program.
- Require the Department of Public Safety and the Capitol Police to conduct a thorough review of their “bomb threat” protocol and adopt necessary changes to ensure effective implementation. The Capitol Police should provide a written explanation and provide guidance to each agency director and agency risk manager in the Capitol Complex.
- Require the Public Safety Commission and the State Preservation Board to coordinate to post notice in accordance with Section 30.06, Texas Penal Code, to prohibit the carrying of licensed concealed handguns in each facility under its jurisdiction.

- Require the Capitol Police to conduct a comprehensive review of security services provided by each agency in the Capitol Complex and adopt necessary changes to ensure that Capitol Police and other agency security services are effectively coordinated to maximize security services and reduce duplication of services.

### Charge

**Review the program and processes by which disabled workers are afforded priority in certain state procurements, including the roles of the General Services Commission, the Council for Purchasing from People with Disabilities, and the Texas Industries for the Blind and Handicapped.**

### Background

The State of Texas has a clearly articulated policy of encouraging and assisting “persons with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities.” Texas has put this policy into practice by establishing the Texas Council on People with Disabilities (“Texas Council”) and its concomitant mandatory State Use Program. The program gained attention after a dispute over program information and ensuing litigation over competitive bidding was filed against the Texas Council by the Texas Industries for the Blind and Handicapped (TIBH). Questions about the program also arose after the Texas Council approved, then suspended, inclusion of certain postage meters on the State Use Program’s list of mandatory purchases.

As a result of the dispute and problems between the Texas Council and TIBH, and the questions of product inclusion in the State Use Program, the House Committee on General Investigating was asked to review the program and processes by which disabled workers are afforded priority in state procurement, including the roles of the General Services Commission (GSC), the Texas Council, and TIBH.

Because the charge to the House Committee on General Investigating and the Senate State Affairs related to the same subject matter and arose from similar concerns, the House and Senate committees worked together in examining the issue.

The committee concluded that the State Use Program has served to provide employment opportunities for many disabled persons. In spite of this positive record, fundamental flaws in the program’s design and implementation renders the program difficult to administer, diminishes the program’s integrity, and leaves it vulnerable to abuse.

## INTERIM DIGEST HOUSE COMMITTEE ON GENERAL INVESTIGATING

### Recommendations

- Give the Texas Council clear statutory authority to select one or more central nonprofit agencies (CNA) through generally accepted competitive bidding procedures for this type of service.
- Give the Texas Council clear statutory authority to establish advisory committees. Advisory committees should at a minimum assist the Texas Council in reviewing the program's effectiveness and recommend innovative ideas which create higher skilled and higher paying employment opportunities for the disabled.
- Give the Texas Council clear statutory authority to select one or more CNAs for periods not to exceed five years. The statutes should set out other terms for selection and termination of CNA contracts.
- Give the Texas Council clear statutory authority to obtain financial and any other type of information from any CNA (including TIBH) or community rehabilitation program (CRP) it deems necessary to fulfill its obligation to oversee the State Use Program, but privacy interests of any employee of a CNA or CRP should be recognized by law.
- Give the Texas Council clear statutory authority to employ its own staff to provide oversight of the State Use Program and provide necessary policy guidance and administrative support to the Texas Council. Funding for additional staff should come from the management fee charged to CRPs by the CNA. The shifting of responsibilities from the CNA (TIBH) to the newly dedicated staff should reduce the amount of any increases in the management fees assessed to CRPs.
- Authorize the Texas Council to review the management fee charged by the CNA to a CRP on annual basis. Require the fee charged to CRPs to be reasonable and based on actual services provided by the CNA, plus cost of staff for the Texas Council. Authorize the Texas Council to request any level of audit services from the State Auditor's Office.
- Require any dispute among the parties (CNA, CRP, and the Texas Council) to be subjected to Alternative Dispute Resolution procedures before access to the courts is permitted.
- Urge the Texas Council to adopt conflict of interest rules that apply to the CNA and CRPs.
- Urge the General Services Commission (GSC) to assign an employee, preferably at the deputy executive director level, a role to ensure GSC's responsibilities to the State Use Program are met.
- Require the Texas Council to include rules addressing certification of CRPs desiring to participate in the State Use Program. Give the Texas Council clear authority to define the maximum or minimum percentage of disabled labor a CRP must employ for eligibility of a product or service in the program.



## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON GENERAL INVESTIGATING**

- Urge that the Texas Council to adopt rules that give substantive and meaningful guidance to partnerships between CRPs and other non-profit or for-profit organizations. Partnerships with for-profit organizations should be approved by the Texas Council before authorized for inclusion in the State Use Program.
- Urge the Texas Council to adopt rules defining “value-added” and “direct labor” for products manufactured or services provided for sale through the State Use Program.
- Require, by statute, GSC to include the State Use Program in state agency procurement policy manuals.
- Include in the annual report of the Texas Council employment data on sheltered workshops and supportive employment data from CPRs participating in the State Use Program. The report should include the number of disabled and non-disabled workers employed, and the average and range of weekly earnings for disabled and non-disabled workers.
- Require each state agency to designate a staff member to assure that mandatory provisions of the State Use Program are followed. Each state agency should be required to report purchases of products or services available through the State Use Program, but purchased outside of the program, to GSC.
- Authorize, by statute, the Texas Council to adopt a definition of “disability” to qualify for CRP employment under the State Use Program. In adopting a definition, the Texas Council should seek and consider advice from disability advocacy groups and relevant state agencies.
- Allow the governor greater flexibility when appointing members to the Texas Council. Allow the governor to select the council from a list containing representatives of stakeholder groups and agencies that purchase a significant amount from the State Use Program. Require the governor to include at last one representative from each category on the list.

**HOUSE COMMITTEE ON HIGHER EDUCATION**

**Charge**

**Review models and discuss methods for strengthening partnerships between higher education, public education, and the private sector to better prepare students enrolling in post-secondary education and to improve college-level retention and graduation rates.**

**Recommendation**

- Create a statewide K-16 Council that includes executives from higher- and public-education agencies and institutions, faculty, public school teachers and students, student body representatives from higher education institutions (IHEs), and the legislature.

**Charge**

**Evaluate the satisfaction of professional and graduated school programs, the business community and general public with the preparation level of college graduates to determine what changes are needed in course offerings and preparation levels.**

**Recommendation**

- Develop undergraduate programs and academic courses at statewide public colleges and universities that better address the technology workforce shortage.

**Charge**

**Study trends in funding sources, including tuition, fees, and appropriations, and expenses, including salaries, inflation and institution-specific costs, to determine if institutions have the necessary resources to achieve their missions.**

**Background**

Higher education costs are increasing, outpacing inflation in the general economy during the 1998-1999 academic year. Overall, Texas tuition and fees rose dramatically over the last decade, increasing to 29<sup>th</sup> in the nation from 42<sup>nd</sup>, doubling since 1992. However, student grants and loans increased six percent during the same period. In the last 10 years, tuition and fees have increased from four percent to eight percent of the median household income in Texas. For some institutions, the legislature has approved flexible tuition of up to \$40 per semester credit hour.

**Recommendations**

- Establish an affordability policy on tuition and fees that ensures students, especially those who are economically disadvantaged, are able to participate and succeed in higher education.

## **INTERIM DIGEST HOUSE COMMITTEE ON HIGHER EDUCATION**

- Expand funding of the TEXAS Grant Program by an additional \$100 million for each year of the biennium in an effort to further involve students in higher education.
- Expand the Teach for Texas Conditional Grant Program with additional funding.

### **Charge**

**Evaluate the need for additional flagship and research institutions to determine necessary changes in the governance structure of higher education systems and institutions.**

### **Recommendations**

No recommendations were made.

### **Charge**

**Monitor the impact of H. B. 588, 75<sup>th</sup> Legislature, in increasing the diversity of students in college and performance levels of students admitted under the top 10 percent plan. Evaluate ways to increase the diversity of students in graduate-level and professional-degree programs.**

### **Background**

In monitoring H. B. 588, which provides for automatic admission to state colleges and universities for students in the top 10 percent of their graduating classes, the committee found that the legislation has been copied in other states. Enacted in reaction to the dismantling of affirmative action policies, the law has resulted in rebounding enrollments for minority students at major Texas universities.

### **Recommendation**

- Create an admissions policy that considers the top ten percent ranking of undergraduates as an additional factor for graduate and professional school admission.

### **Charge**

**Conduct active oversight of the agencies and institutions under the committee's jurisdiction.**

### **Recommendations**

No recommendations were made.

**HOUSE COMMITTEE ON JUDICIAL AFFAIRS**

**Charge**

**Study the need to revise Texas law on hate crimes.**

**Background**

A hate crime is a crime in which the defendant intentionally selects a victim or object because of bias or prejudice based on the actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person. The vast majority of hate crimes are property crimes and simple assaults.

Although it was not enrolled by the 76<sup>th</sup> Legislature, H.B. 938 (The James Byrd Jr., Act) was a comprehensive approach to the problem of hate crimes. The bill:

- Enhanced penalties for crimes committed against a person because of bias or prejudice.
- Provided for a hate crimes coordinator in the Office of the Attorney General.
- Provided financial assistance to smaller counties for hate murder prosecutions.
- Allowed easy-to-obtain, free protective orders for victims' property and persons.
- Mandated education for law enforcement personnel on identifying and documenting hate crimes.
- allowed victims of hate crimes to sue the perpetrator(s) for civil remedies.

**Recommendations**

- Adopt the basic language of H.B. 938, 76th Legislature, as engrossed, with the following modifications:

Eliminate language which included "pregnant persons" among the groups against which hate crimes could be directed;

Require the bias or prejudicial motive of the crime to be proven beyond a reasonable doubt; and

Require criminal court clerks to submit annual reports on hate crime prosecutions in their jurisdictions to the Texas Judicial Council/Office of Court Administration for inclusion in the Texas Judicial System Annual Report.

**Charge**

**Review and assess the success of specialized drug courts in other states.**

**Background**

Drug abuse is associated with crime. Two-thirds of those arrested in the U.S. test positive for illegal drug use at the time of arrest. Moreover, drug abusers are more likely than other criminals to become repeat offenders. One alternative to the long-term imprisonment of drug offenders is the "drug court." There are currently four such drug courts in Texas, down from five in January 2000. In order of inception, these courts are in Beaumont (March 1993), Austin (August 1993), Dallas (January 1998) and Conroe (September 1999). The judges who run these courts do so as volunteers or as magistrates, and without state funding or recognition. Funding is typically from a variety of sources, including private, nonprofit, federal, and local grants.

While statistics on state savings are encouraging, without a state policy authorizing the creation of drug courts and a state funding mechanism to support the continued operation of such courts, state law currently inhibits the creation and operation of such courts.

**Recommendations**

- Allow county commissioners to establish drug courts.
- Target drug and alcohol offenders and nonviolent or first-time offenders who were drug or alcohol dependent at the time of the crime.
- Require drug court judges to be magistrates appointed by the county judicial board at a salary determined by the commissioners court, for a term of four years.
- Require drug courts authorized by the commissioners court to be certified by the National Association of Drug Court Professionals within 18 months.
- Authorize drug courts to collect fees for urinalysis tests and counseling based on ability to pay.
- Authorize drug courts to collect a monthly appearance fee of \$25.
- Encourage the House Appropriations Committee and Senate Finance Committee to study methods of funding existing drug courts once federal, local, and nonprofit grants expire.

**Charge**

**Conduct a comprehensive review of the appellate court system, including issues related to the selection of appellate judges, judicial redistricting, efficiency of handling workload, overlapping appellate districts, and forum shopping.**

# **INTERIM DIGEST**

## **HOUSE COMMITTEE ON JUDICIAL AFFAIRS**

### **Background**

The current territorial jurisdictions of the appellate districts appear to have no logical underpinnings. For example, the fourteen counties of the First Appellate District are also in the Fourteenth Appellate District. Eight counties are in two geographically different appellate districts. Brazos County is in Houston's First and Fourteenth Appellate Districts, and in Waco's Tenth Appellate District.

Appeals filed per justice vary by more than 157 percent between the Ninth and Eleventh Appellate Districts. Texas law allows the Supreme Court to transfer cases to appellate courts with less crowded dockets. This often results in cases being heard hundreds of miles away from the original jurisdiction. Even after accounting for transferred cases, the caseload per justice varies by more than 36 percent.

### **Recommendations**

- Require the Sunset Advisory Commission to review the courts of appeals during the current cycle.
- Split the Thirteenth Appellate District into two appellate districts, one based in Corpus Christi with three judges and one based in Edinburg with five judges. Consider changing jurisdictional lines.
- Move Montgomery County into the First and Fourteenth Appellate Districts. Move Trinity and Liberty Counties into the Ninth Appellate District.

### **Charge**

**Review the need for the Judicial Districts Board.**

### **Recommendations**

No recommendations were made.

**Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

**Recommendations**

***Judiciary***

- Prohibit political party officials from contacting judges on cases pending before a court if such contacts are not publicly disclosed by filings in the case with notice to all parties.

***Child Support Division of the Office of the Attorney General***

- Conduct a study on child support that is unable to be collected. The study should include the issues of interest rates, holding arrears in abeyance, incarceration, limiting interest on arrearages by time or amount, and the equitable doctrine of laches (Under this doctrine a state is prohibited from setting retroactive support where the father has been known and available, but the state has not acted to establish paternity).

***Court Reporters Certification Board***

- Authorize the Court Reporters Certification Board to more fully regulate court reporting firms.

**HOUSE COMMITTEE ON HUMAN SERVICES**

**Charge**

**Study issues created by the transition of the Temporary Assistance for Needy Families (TANF) program to comply with federal law when the state's waiver expires in 2002.**

**Recommendations**

- Comply with federal TANF mandates by imposing a greater penalty for non-compliance with the Child Support Program for single parent families with seven or more children and two-parent families with six or more children.
- Comply with federal TANF mandates to limit the use of Individual Development Accounts (IDA) for TANF clients to post-secondary education, first home purchases, and business capital investments.
- Enact a state law allowing non-trafficking drug felons, having completed their sentences, to receive TANF/Food Stamps.
- Utilize TANF Maintenance of Efforts (MOE) for assisting and servicing two-parent families.
- Clarify the term "work exemptions" in statute and maintain the current "good cause" exemptions that last no longer than three months.
- Direct the Health and Human Services Commission (HHSC), the Department of Human Services (DHS), and the Texas Workforce Commission (TWC) to establish a state definition of "hardship exemptions." This is important because states that define hardship exemptions are allowed to exempt 20 percent of their TANF caseloads from federal time limits.
- Require all adults receiving cash assistance to participate in work activities within 24 months.
- Include post-secondary education and vocational education lasting beyond 12 months in the definition of "allowable work activities."
- Increase the supply and capacity of quality child care for current and former TANF clients.
- Direct DHS to continue providing an additional six months of Transitional Medicaid benefits to exempt Choices Program clients.



## INTERIM DIGEST

### HOUSE COMMITTEE ON HUMAN SERVICES

- Expand the educational opportunities, job coaching, emergency cash assistance, transportation assistance, health care, access to child care, for participants leaving welfare for jobs.
- Continue funding the Employment Retention and Advancement (ERA) pilot program and direct DHS to deliver evaluation results of the ERA pilot to the legislature for consideration of statewide expansion.
- Direct DHS and TWC to follow the best practices in coordination of services as recommended by a DHS/Local Workforce Development Board Coordination Workgroup.
- Direct DHS to investigate why a family may be subject to imposed sanctions.
- Recommend funding rewards for Local Workforce Development Boards that place and retain TANF Choices participants in jobs providing sufficient wages to lift families above poverty.
- Provide funding for a pilot project that would allow DHS, TWC, and the Texas Department of Protective and Regulatory Services (DPRS) to provide wrap-around services for families with mental health needs.

#### Charge

**Study issues surrounding the financial difficulties experienced by some nursing home companies, including the reasons for bankruptcies and closures, state policies and resources for dealing with them, and the impact those financial difficulties are having on nursing home residents.**

#### Recommendations

- Increase Medicaid reimbursement rates for nursing home care and increase funding for additional enhancement through a funding methodology that provides incentives for increased direct care staffing.
- Direct HHSC and DHS to do the following:

Review the base Medicaid reimbursement methodology for nursing home care to identify legitimate costs that may not be reflected in the rate.

Evaluate the effectiveness of the new Medicaid nursing home rate methodology that provides incentives for increased direct care staffing, and consider the addition of incentives for increased dietary programs to improve quality of care for residents.

## INTERIM DIGEST HOUSE COMMITTEE ON HUMAN SERVICES

Account for varying resource needs of nursing homes by conducting a new time study/recalculation of the Texas Index for Level of Effort (TILE).

- Expand the amount of matching federal Medicaid funds for nursing home reimbursement rates by enacting a “quality assurance fee” on the gross revenue of nursing homes.
- Urge the Texas Department of Insurance (TDI) to conduct a data call to collect more information about the nature of the liability insurance crisis.
- Allow for-profit nursing homes to purchase coverage through the Joint Underwriting Association (JUA).
- Require the JUA to utilize an “experience rating” process to determine a system of tiered rates for nursing homes.
- Establish a temporary license for prospective nursing home operators going through the change-of-ownership process.
- Increase funding for DHS audit staff to investigate the financial viability of nursing facilities.
- Urge DHS to increase the use of the “Amelioration of Violation” and provide DHS with new guidelines for the appropriate use of amelioration.

### Charge

**Assess the state’s responsibilities and policies regarding supports for individuals with disabilities in community-based settings.**

### Recommendations

- Fund a comprehensive community-based pilot program and sequential “roll-out” that encompasses concepts presented to the committee and the Promoting Independence Advisory Board.
- Reduce the waiting list for community-based waiver programs by funding additional community-based programs.
- Explore the possibility of allowing funds to “follow” individuals leaving long-term care institutions for community-based programs.
- Direct DHS to raise the individual expenditure cap in the Community-Based Alternative (CBA) program annually and assess the effect on waiver cost-effectiveness of each increase.

## INTERIM DIGEST

### HOUSE COMMITTEE ON HUMAN SERVICES

- Authorize prescription drug coverage for clients in the Frail and Elderly Program at DHS.
- Develop a system notifying DHS of a child's admission into a long-term care institution is approved.
- Clarify the requirement that permanency planning occurs for every child in an institution.
- Authorize children in the state's custody with severe long-term care needs to bypass the waiting lists for community-based waiver programs and fund dedicated waiver slots.
- Establish safeguards to ensure the safety of individuals who are transferred to community-based programs.

#### Charge

**Study the current public assistance eligibility, application and review processes, and other Department of Human Services' (DHS) client communications to ensure that clients are getting supports necessary to make a successful transition to self-sufficiency.**

#### Recommendations

- Direct DHS to do the following:
  - Eliminate the face-to-face interview requirement for children's Medicaid applications.
  - Discontinue the assets test for children's Medicaid applications.
  - Implement 12-month continuous eligibility for children's Medicaid.
  - Adopt documentation requirements for children's Medicaid applications that are similar to Children's Health Insurance Program (CHIP), and direct DHS to simplify documentation requirements for all public assistance applicants.
  - Minimize face-to-face requirements for Food Stamp and adult Medicaid applicants who are working.
- Revise resource requirements for the Food Stamp Program to ensure that families with children can own a reliable vehicle.
- Direct DHS to conduct an extended hours survey and implement extended office hours at all appropriate locations across the state.

## INTERIM DIGEST

### HOUSE COMMITTEE ON HUMAN SERVICES

- Increase funding for DHS to handle an increase in children's Medicaid applications as a result of CHIP outreach efforts.
- Direct DHS to do the following:
  - Develop customer satisfaction performance measures and provide incentives for meeting and exceeding these standards.
  - Establish an "Office Standards Working Group.
  - Review and revise all levels of client communications in a workgroup process
  - Develop a web-based screening tool for community-based organizations to determine Food Stamp Program eligibility.
- Fund outreach programs that target harder to reach populations for access to the Food Stamp Program and Medicaid.
- Mandate that a certain percentage of any enhanced federal funding Texas receives for Food Stamp error rate reduction be invested in efforts to increase participation in the Food Stamp Program.
- Fund food, medical and cash assistance as well as work support for immigrant victims of domestic violence.
- Provide Temporary Assistance for Needy Families (TANF) to legal permanent residents after their five-year lockout has elapsed.
  
- Direct HHSC and TDI to promote access to prenatal and maternity care services for legal immigrant women subject to the five-year lockout from full Medicaid benefits.
- Direct HHSC to exercise the option to extend full Medicaid pregnancy benefits to certain legal immigrant women, if Congress creates such an option.
- Include state recognition of nonresidential family violence centers and authorize state appropriations to DHS for the Family Violence Program.

# **INTERIM DIGEST HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES**

## **HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES**

### **Charge**

**Review current laws relating to parental abduction.**

### **Recommendations**

#### ***Statutory revisions***

- Eliminate statutory conflicts relating to “missing children,” “missing persons,” and “runaways” in the Code of Criminal Procedure, the Juvenile Justice Code, and the Penal Code.

#### ***Public Policy Considerations***

Should the maximum age at which a child is considered an adult be 17 or 18?

- No recommendations were made.

Should it be a defense to prosecution that a subsequent court order gives a person who has harbored a runaway, custody or possession of the runaway?

- No recommendations were made.

### **Charge**

**Review the Texas community property system, including constitutional and statutory provisions in Title I (Marriage Relationships), Family Code.**

### **Recommendations**

- Provide that rights of the respective marital estates, the separate property estate of each spouse, and the community property estate of both, do not affect the actual characterization of the property.
- Create an easily calculated equitable interest in the contributing estate to the benefit of the estate in proportion to the contributions made.

### **Charge**

**Review child support guidelines as required by the federal government.**

### **Recommendation**

**INTERIM DIGEST  
HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES**

- Continue the current statutory provisions for determination of child support.

**Charge**

**Conduct active oversight of the Texas Youth Commission, the Texas Juvenile Probation Commission, juvenile justice alternative education programs, the Texas Department of Protective and Regulatory Services, the Office of the Attorney General, and the Criminal Justice Policy Council.**

**Recommendations**

No recommendations were made.

# INTERIM DIGEST

## HOUSE SELECT COMMITTEE ON JUDICIAL INTERPRETATIONS OF LAW

### HOUSE SELECT COMMITTEE ON JUDICIAL INTERPRETATIONS OF LAW

#### Charge

Examine the decisions of Texas appellate courts over the last five years to identify those decisions that:

- clearly failed to properly implement legislative purposes;
- found two or more statutes to be in conflict;
- held a statute to be unconstitutional;
- expressly found a statute to be ambiguous; or
- expressly suggested legislative action.

#### Recommendations

- Require the Texas Legislative Council (TLC) to perform an ongoing review of appellate decisions in which courts have:
  - clearly failed to properly implement legislative purposes;
  - found two or more statutes to be in conflict;
  - held a statute to be unconstitutional;
  - expressly found a statute to be ambiguous;
  - expressly suggested legislative action; or
  - changed common law doctrines.
- Require the TLC to prepare, prior to each regular legislative session, a report summarizing this review and distribute it to the chair of each house and senate standing substantive committees and the presiding office of each chamber. The report should only inform the committees and leadership of any such appellate decisions, without specific recommendations for statutory changes.
- Regarding the specific cases discussed in the committee's interim report, the committee recommends:

Bring *Fleming Foods of Texas, Inc., v. Rylander*, 6 S.W.3d 278 (Tex. 1999) (Texas Supreme Court ruled that when a codification of Texas law makes a

## INTERIM DIGEST HOUSE SELECT COMMITTEE ON JUDICIAL INTERPRETATIONS OF LAW

substantive change to the prior law, even though no such change was intended, the new law, if it is clear and unambiguous, will govern) to the attention of the House Committee on Ways and Means with respect to the question of tax refunds and the House Committee on State Affairs with respect to recodification language and effect.

Bring *Evans v. C. Woods, Inc.*, 1999 WL 787399 (Tex. App.—Tyler 1999, no writ) (found conflict in Texas law regarding whether interlocutory appeal of a temporary injunction will stay the commencement of the trial) to the attention of the Committee on Civil Practices to consider potential legislation applying time frames to the granting of appealable interlocutory summary judgments to prevent last-minute postponement of trials.

Bring *Lederman v. Rowe*, 3 S.W.3d 254 (Tex. App.—Waco 1999, no pet.), *Gaskill v. Sneaky Enterprises, Inc.*, 997 S.W.2d 296 (Tex. App.—Fort Worth 1999, rev. denied), and *Davis v. Covert*, 983 S.W.2d 301 (Tex. App.—Houston [1st Dist.] 1998, rev. dismissed w.o.j.) (found a conflict between law providing that judgment by a county court or county court at law on appeal from small claims court is final and law giving courts of appeals jurisdiction over cases in which the amount in controversy exceeds \$100) to the attention of the Committee on Civil Practices to determine the potential for legislation granting the courts of appeals jurisdiction to hear an appeal from a county court trial de novo of a small claims court case.

Bring *Campbell v. Walker*, 2000 WL 19143 (Tex. App.—Houston [14th Dist.] 2000) (held that the trial court must decide if a shareholder filed suit under the Texas Business Corporation Act without reasonable cause) to the attention of the Committee on Business and Industry and Committee on Civil Practices to review the potential for legislation defining whether the existence of “reasonable cause” should be determined by the trial court or by the jury in cases under Article 5.14, Section F, of the Texas Business Corporation Act.

Bring *Joyner v. State*, 921 S.W.2d 234 (Tex. Crim. App. 1996) and *Ray v. State*, 919 S.W.2d 125 (Tex. Crim. App. 1996) (held that defendant in criminal case need not be informed prior to entering a plea of guilty or nolo contendere of the consequences of a violation of a condition of deferred adjudication) to the attention of the Committee on Criminal Jurisprudence to review whether existing law sufficiently addresses the requirements of admonishment to a criminal defendant.

Bring *Lane v. State*, 933 S.W.2d 504 (Tex. Crim. App. 1996) (found that statute requiring that a statute barring the admission of an oral statement made by a criminal defendant unless the defendant’s attorney is provided with an accurate copy of all recordings is ambiguous because this could be interpreted to mean either the attorney must be given an actual copy of the recording or just given access to it) to the attention of the Committee on Criminal Jurisprudence to review the potential for legislation answering the question of whether a



**INTERIM DIGEST  
HOUSE SELECT COMMITTEE ON JUDICIAL INTERPRETATIONS  
OF LAW**

defendant's attorney must be given a copy of the defendant's taped oral statement or merely given access to it.

Bring *Coalition Of Texans With Disabilities v. Smith*, 1999 WL 816734 (Tex. App.—Austin 1999, pet. filed) (court overturned exemption for religious buildings from Texas Architectural Barriers Act, which requires accessibility for persons with disabilities) to the attention of the Committee on State Affairs to review the potential for legislation regarding what constitutes a “reasonable waiver” for religious institutions under the Architectural Barriers Act.

Bring *Birnbaum v. Alliance Of American Insurers*, 994 S.W.2d 766 (Tex. App.—Austin 1999, rev. denied) (found ambiguity in statute regarding whether financial institutions under the open records law would include insurance companies, allowing such companies to claim an exemption to disclosure of certain information) to the attention of the Committee on Insurance to review the potential for legislation regarding Section 552.112 of the Government Code and whether an insurance company has the right to claim an exemption from disclosure of certain documents.

Bring *Texas Specialty Underwriters, Inc. v. Tanner*, 997 S.W.2d 645 (Tex. App.—Dallas 1999, rev. denied) (court found law unclear whether a homeowner's policy will automatically renew if the insured receives timely notice to renew policy, but fails to respond) to the attention of the Committee on Insurance to review the potential for legislation to specify the circumstances under which guidelines and procedures universally constitute a renewal or non-renewal of an insurance policy under Article 21.49-2B, Section 5, of the Insurance Code.

Bring *University Of Texas Medical Branch v. Hohman*, 6 S.W.3d 767 (Tex. App.—Hous. [1st Dist.] 1999, pet. filed) (court found ambiguity as to whether the legislature had waived sovereign immunity for retaliation claims brought under the Nurse reporting Act) to the attention of the Committee on Civil Practices and the Committee on Public Health to review the need for legislation to clarify “agency” as stated in Section 301.413 of the Occupations Code and to determine whether a waiver of sovereign immunity was intended.

Bring *In Re Simonek*, 3 S.W.3d 285 (Tex. App.—Waco 1999, no pet.) (the court held that the court in which a suit affecting the parent-child relationship was originally filed must transfer the proceedings to another county where the child has resided for six months and the transferring court may not sanction a party after the transfer) to the attention of the Committee on Juvenile Justice and Family Issues to review the need for legislation clarifying whether a transfer in a suit affecting the parent-child relationship under Section 155.201(b) of the Family Code is mandatory when the child has resided in another county for more than six months and whether the court in which the suit was originally filed and which has adjudged a party to be in contempt should be allowed to assess the party's punishment after the transfer.

**INTERIM DIGEST  
HOUSE SELECT COMMITTEE ON JUDICIAL INTERPRETATIONS  
OF LAW**

Bring *Scott v. Younts*, 926 S.W.2d 415 (Tex. App.—Corpus Christi 1996, writ denied) (court ruled that “needs of the child,” which is not defined in the Family Code, must be determined by courts on a case-by-case basis) to the attention of the Committee on Juvenile Justice and Family Issues to review the need for legislation clarifying what constitutes the “needs of the child” under Section 14.055(c) of the Family Code (recodified in 1995 as Section 154.126 of the Family Code) when courts order support by certain obligors whose monthly net resources exceed \$6,000.

# INTERIM DIGEST

## HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT

### HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT

#### Charge

**Study the ability of counties to provide for appropriate growth and development in unincorporated areas while balancing private property rights.**

#### Background

When the Texas Constitution was adopted in 1876, the organization of county government was carefully restricted, due mainly to the effects of Reconstruction. County authority continues to be limited by the constitution and legislature today. Most home-rule municipalities have broad authority to regulate, having been given extensive platting, zoning, and other land-use authority. This system worked fairly well when Texas was primarily a rural state. Now, however, as populations gravitate towards the unregulated areas, public expectations of county authority have increased. The legislature has responded in past sessions by granting authority to counties to deal with specific common problems, such as certain fireworks regulation, subdivision platting in economically distressed areas, the keeping of wild animals, and visual aesthetics in certain outdoor businesses. The legislature has also granted general land use authority to counties in specific areas, such as portions of Padre Island, the Amistad Recreation Area in Val Verde County, several lakes, and the McDonald Observatory.

#### Recommendations

- Draw up a list of non-conforming land uses to be debated.
- Set up one set of standards of review in the ETJ, and eliminate dual review. Since the municipal standards are the strictest in the majority of cases, the committee leans towards municipal jurisdiction.
- Prepare recommendations regarding standard building codes.
- Legislate standard building codes, with local amendments.
- Allow counties the ability to write community standard rules regarding septic tank systems.

#### Charge

**Conduct a survey of cities and towns sufficient to establish a factual basis for the committee's consideration of matters such as annexation, condemnation and development.**

#### Recommendations

- Continue studying and monitoring the annexation process.
- Study the process of eminent domain for possible abuses in the process.

## **INTERIM DIGEST HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT**

- Continue municipal surveys as a monitoring tool.

### **Charge**

**Study the regulation of billboards placed along highways.**

### **Background**

Proponents of placing billboards along highways are generally the landowners who lease their property to billboard companies to erect signs, and of course, the billboard companies themselves. Many see this as a property rights issue, and that landowners have the right to lease their private land for this purpose. Several landowners have said they would be unable to keep their land without the billboard revenue to pay taxes.

Opponents call billboards “litter on a stick,” and say that landowners have no right to lease the “public view.” They further contend that without the roads passing by the billboard property, landowners would not be able to lease their property for this purpose. Opponents reason that since roads are paid for with tax dollars, the public has the right to demand an unobstructed view as they travel.

### **Recommendation**

- Consider Austin as having the jurisdiction over where the billboards in question may be placed.

### **Charge**

**Conduct active oversight of the agencies under the committee’s jurisdiction. Monitor actions taken under H.B. 1704 (building permits), S.B. 710 (platting), and S.B. 1690 (coastal erosion), during the 76<sup>th</sup> Legislature.**

# INTERIM DIGEST

## HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT

### Background

In most Texas cities prior to 1987, land development occurred under stable rules. A landowner would file a preliminary plat that would comply with existing regulations. The landowner would then proceed to develop his project in compliance with the rules in effect at the time of the filing of the permit application. Some cities, however, would repeatedly change development rules and apply them to projects in progress. Changes made to a project's specifications in mid-stream resulted in expensive changes that were often passed on to the ultimate purchasers of a project, mainly homeowners.

Developers and landowners responded by pursuing the passage of vested rights, legislation that would ensure their rights to develop and use their land regardless of changes made by regulatory entities in the midst of a project's completion. "Vesting" occurs when property owners have made significant steps in the development of a project prior to the enactment of ordinances that prohibit or limit what formerly was permitted. In return, several municipalities made direct changes to their permit process that violated the principle of "vested rights."

The 71<sup>st</sup> Texas Legislature directed the Texas General Land Office (GLO), in 1989, to coordinate development of a comprehensive, long-range plan for the management of state-owned coastal lands. The 72<sup>nd</sup> Texas Legislature created the Coastal Management Program through the Coastal Coordination Act. The 74<sup>th</sup> Texas Legislature more finely defined the Act.

Texas remained at a huge disadvantage, however, because the state had no coastal erosion response fund from which to act as a local match for federally-approved erosion projects. In 1999, the legislature successfully passed S.B. 1690, sponsored by Representative Patricia Gray and five House co-sponsors.

### Recommendations

- Decline consideration of setting a time limit for cities to act on H.B. 1704 claims.
- Commend the General Land Office for its aggressive start-up of the coastal management program, especially its continued efforts to locate leveraging funds.
- Find that the dormant projects provision does not hamper a city's ability to enforce current regulations, but would consider amending the legislation if a city can conclusively prove that health and welfare are threatened by the existing situation. Recommends continued monitoring.
- Encourage those who feel that the definitions of H.B. 1704 need clarification to submit recommendations before the 77<sup>th</sup> Legislature.
- Draft and pass corrections to the confusing language in S.B. 710 during the 77<sup>th</sup> Legislature.
- Urge county commissioners to let the committee know the easiest way to accomplish notification of the court when a parcel of land changes its status from an exempted piece of property to a plat-required piece of property.

**INTERIM DIGEST  
HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT**

**HOUSE COMMITTEE ON NATURAL RESOURCES**

**Charge**

**Study all issues related to groundwater availability, including the role and needs of groundwater conservation districts to ensure effective management of the resource. Consider the effectiveness and feasibility of aquifer-based management, and the adequacy of data and modeling for regional water planning efforts. Assess the implementation of S.B. 1911, enacted by the 76<sup>th</sup> Legislature.**

**Background**

Groundwater is a major water resource in Texas, supplying approximately 9.4 million acre-feet of water, or 57 percent, of the total water used statewide. S.B. 1, the comprehensive water conservation bill passed by the 75<sup>th</sup> Legislature in 1997, authorized aggressive management of groundwater resources at local levels. Groundwater conservation districts (GWCDs) are the state's preferred method of groundwater management and they provide for the conservation, preservation, protection, recharging, and prevention of waste for groundwater resources within their jurisdictions. At least 30 groundwater conservation districts were proposed in the 76<sup>th</sup> Legislative Session, but did not become law. Instead, a compromise bill, S.B. 1911, was passed into law creating 13 temporary districts with limited regulatory authority. These districts will have to be ratified by the 77<sup>th</sup> Legislature in order to continue operating.

**Recommendations**

- Support the creation of groundwater conservation districts as the appropriate mechanism for groundwater management in Texas.
- Provide groundwater conservation districts with all powers and authority necessary to adequately manage groundwater resources.
- Consider streamlining the process for creating districts through the landowner petition process and the priority groundwater management process at Texas Natural Resource Conservation Commission (TNRCC).

Encourage, where feasible, the creation of districts along designated management boundaries as opposed to political boundaries.

Strengthen statutes that encourage joint management by districts that share the same aquifer, including the development of consistent management plans, joint education projects, aquifer modeling, and studies.

- Examine Section 36.117 of the Texas Water Code, with particular focus on the exemption for wells incapable of producing more than 25,000 gallons of water per day.

## **INTERIM DIGEST HOUSE COMMITTEE ON NATURAL RESOURCES**

Specify that exemptions granted under Section 36.117 no longer apply when the well is not being used for its exempted purpose.

- Continue to consider the effect of export limitations and fees on private property rights and on the authority of groundwater conservation districts.
- Continue to support all aspects of the Texas Water Development Board's Groundwater Availability Modeling efforts.

### **Charge**

**Assess the condition of abandoned or deteriorated water wells and the need for state and local involvement to address potential problems.**

### **Background**

Over the years, many water wells around homes, farms, industrial sites, and urban areas have been abandoned without being properly plugged. It is conservatively estimated that 150,000 of the water wells drilled since 1965 are abandoned and/or deteriorated. An abandoned water well is a direct conduit from the surface to the aquifer below. Contaminants that enter the well are introduced into the aquifer with no opportunity for natural filtration through soils or geologic materials. The most commonly reported contaminants are gasoline, diesel, and other petroleum products.

Current state law requires landowners to plug or cap abandoned or deteriorated water wells, and the Texas Department of Licensing and Regulation has the authority to assess penalties when landowners do not comply. However, in many cases involving insolvent or absentee landowners, a lack of financial resources prevents properly plugging the well.

### **Recommendations**

- Support the creation of a state fund for plugging abandoned or deteriorated water wells in situations involving absentee or insolvent landowners.

Expand GWCD's authority to encumber land where abandoned or deteriorated wells are located to include political subdivisions as well as the state.

Deposit monies collected from these liens into the state well-plugging fund.

### **Charge**

**Study the state's criteria and regulations for determining potential sites for wetlands mitigation efforts.**

### **Background**



## **INTERIM DIGEST HOUSE COMMITTEE ON NATURAL RESOURCES**

Wetlands include areas such as swamps, marshes, and bogs along with bottomland hardwood forests dominated by wetland-tolerant species. Regulatory definitions of wetlands may also include artificial or man-made wetlands, and in specific cases, not only wetlands that border streams, lakes or other water, but also isolated wetlands that affect interstate commerce.

Benefits of wetlands include providing habitat for millions of waterfowl and one-third of the nation's endangered or threatened species. In addition, wetlands support a \$2.5 billion per year nursery and spawning business for 90 percent of the recreational and commercial marine species in Texas. Other benefits provided by wetlands include: flood conveyance and flood storage; barriers to waves and erosion; sediment control; water supply and water quality; education research opportunities; recreation; and open space and other aesthetic value.

As the population of the state increases, wetland preservation competes with the need for more land to develop new water supplies and growing urban areas. The federal Clean Water Act requires a permit to be obtained before discharging any dredged or fill-material into waters of the United States, specifically including wetlands. At the same time, state and federal policy requires no loss of wetlands, and these discharges can destroy or degrade wetlands. As a solution to this conflict, government policy calls for mitigation of environmental losses where negative impacts from an original project proposal are reduced through permitting. However, for many years, the regulatory process surrounding permitted dredging and development in wetlands has been confusing and burdensome. The involvement of both state and federal agencies creates serious duplication in permitting efforts, and significant cost in terms of time and money for all parties involved. The greatest failure of the existing system is the initiation and enforcement of permit conditions to mitigate for wetland, including the determination of appropriate mitigation sites, according to the committee's report. This area of regulation has also suffered greatly as resources at the federal level have diminished.

### **Recommendation**

- Encourage permit streamlining efforts and cooperation between state and federal agencies.

Study the criteria and regulations used for determining wetlands mitigation sites.

Strongly support mitigation efforts that encourage broad-based planning and restoration.

### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

### **Recommendations**

## **INTERIM DIGEST HOUSE COMMITTEE ON NATURAL RESOURCES**

Although it has no specific recommendations at the time of this report, the committee will continue to monitor the agencies' activities with regard to S.B. 1 implementation, the Edwards Aquifer Authority, the sunset review process, and other issues of state and local concern. Many of these issues may warrant deliberation and action by the 77<sup>th</sup> Legislature.

**HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS**

**Charge**

**Review the adequacy of the state's monitoring of local retirement systems.**

**Background**

Following the 76<sup>th</sup> Legislature, the Pensions and Investments Committee was charged with reviewing the Pension Review Board (PRB), the independent agency that monitors state and local retirement systems.

Today there are 350 public retirement systems registered with the PRB. Of these, 238 cover paid public employees, and the remaining 112 are local systems for volunteer fire fighters. Total assets of public retirement systems in Texas exceed \$122 billion, serving approximately 1.3 million active employees and 286,000 annuitants.

**Recommendations**

- Urge that the Pension Review Board (PRB) to continue to work with local governments and pension funds to resolve any underfunding issues that are identified. The responsibility for developing and implementing solutions rests on the local entities; a solution is not imposed by the state.
- Encourage the PRB to continue to use its current authority to enforce compliance with state law. State law requires public pension systems to file annual reports with the PRB, allowing PRB staff to review actuarial assumptions and to assure that the plans are fully funded.
- Continue to monitor the effectiveness of the current system to address problems with local retirement systems. The delivery of benefits must be in compliance and in order to ensure that when problems occur, local solutions are enacted.

**Charge**

**Evaluate the pros and cons of defined contribution retirement plans that do not guarantee members any specific level of benefits upon retirement. Plans adopted in other jurisdictions should be considered and compared with Texas' state plans in regard to their ability to provide security to retirees, cost, and fairness to diverse employee groups.**

**Background**

Across the nation, all state government employees and nearly all local government employees are provided pension benefits.

Over 90 percent of public-sector employees are currently covered by pension plans, according to the Department of Labor. Prior to the 1970s, public retirement systems were

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS**

frequently financed on a pay-as-you-go basis. Since that time, a considerable focus has been placed on pre-funding benefits and, as a result, the vast majority of plans are actuarially sound.

In addition to Social Security benefits, employers may provide retirement benefits under two basic structures: defined benefit plans and defined contribution plans. Which of these plans provides the best designed plan was the central question.

#### **Recommendations**

- Maintain the current defined benefit (DB) structure of the Employees Retirement System (ERS) and Teacher Retirement System (TRS) retirement programs. Of the 1043 school districts in Texas, 21 provide Social Security coverage to all their employees and 26 provide Social Security coverage to select employees. The TRS pension plan provides school district employees with a guaranteed income that would otherwise not exist.
- Look for ways to enhance benefits for employees. Increasing the TRS multiplier as during the last legislative session to enhance benefits without jeopardizing the long-term ability of the fund to meet obligations should be considered. Increase portability and benefits for short-term employees, for example, by increasing the interest rate payments on withdrawn contributions at ERS.
- Encourage participation in ERS' optional deferred compensation plan. Over the past year, ERS has made improvements in the optional 401 (k) and 457 plans. Membership in these plans is high, particularly in light of the fact that there is no state contribution.
- Explore the need and cost of establishing a similar, optional deferred compensation plan at TRS. 401 (k) and 403 (b) plans offered by the local school districts vary greatly in cost and performance. Feasibility of matching either school districts or the state to a centralized, optional TRS plan would greatly enhance participation; teachers would be provided the stability of a DB plan and the portability of a DC plan.

#### **Charge**

**Consider a general policy for the state regarding the re-employment of people who have retired under a state retirement plan.**

#### **Background**

For purposes of this report, we will be examining the re-employment policies of the Employees Retirement System (ERS) and the Teacher Retirement System (TRS). The current differences in the two systems are based on the differences in work schedules for employees in the two systems, as well as on the availability of qualified employees.

Both the TRS and ERS face problems. TRS faces a severe shortage in the number of available certified teachers. Since the pool of certified teachers does not keep pace with

## **INTERIM DIGEST HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS**

demand, the legislature has acted to help school administrators tap into a valuable talent pool, retired teachers, while recognizing that this population cannot play too significant a role in solving the teacher shortage problem. Roughly 70 percent of the estimated 10,000 are over the age of 65. S.B. 1128 has other “utilization of return to work exceptions” which can be applicable.

### **Recommendations**

- Maintain the current return to work provisions at ERS and TRS.
- Continue to monitor the effectiveness of return-to-work provisions in S.B. 1128.

### **Charge**

**Review the need for multiple cash and reduced annuity options such as lump sum and Deferred Retirement Option Program, or “DROP,” plans.**

### **Background**

DROPs were established in the early 1980s in Louisiana as many retirement systems in the state offered retirement benefits at a relatively early age. DROPs have evolved to accomplish various goals, including increasing portability; inducing changes in retirement patterns—either to get people to work longer or retire earlier; allowing an individual to create an estate within a defined benefit system. DROPs have been increasing in popularity, particularly among police and firefighter retirement systems.

### **Recommendations**

- Continue the existing programs, which provide cash and reduced annuities for retirees at TRS and ERS. Both the Partial Lump Sum Option (PLSO) and the Deferred Retirement Option Program (DROP) at TRS have been chosen by satisfied employees, and in high numbers. These options allow retirees more flexibility in retirement planning.
- Prioritize changes which will benefit all retired and active members if enhancements are made to existing retirement programs.

### **Charge**

**Conduct active oversight of the agencies under the committee’s jurisdiction.**

### **Background**

The agencies under the committee’s jurisdiction are: the Office of Fire Fighters’ Pension Commissioner, the State Board of Trustees of the Teacher Retirement System, the State Board of Trustees of the Employees’ Retirement System, the Board of Trustees of the Texas County and District Retirement System, the Board of Trustees of the Texas County

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS**

and District Retirement System, the Board of Trustees of the Texas Municipal Retirement System, the State Pension Review Board and the State Securities Board (SSB).

The SSB administers and enforces the Texas Securities Act (Act). The mission of the SSB is to protect Texas investors by ensuring a free and competitive securities market for Texas, increase investor confidence, and thereby encourage the formation of capital and the creation of new jobs. To accomplish this, the Act gives the SSB certain powers.

#### **Recommendations**

- Add a new provision to the Securities Act to clarify that all inspection and investigation records are private. Such clarification would eliminate any concern regarding the privacy of customer records obtained during an investigation or inspection.
- Examine whether the agency has adequate staff to efficiently handle the number of investigations necessary (a number, which is likely to increase as the population of Texas, grows and public involvement in securities expands).

**HOUSE COMMITTEE ON PUBLIC EDUCATION**

**Charge**

**Evaluate the charter school program. Review the roles of the state, Texas Education Agency, and local districts and agencies, as well as the performance of the schools and their students.**

*The committee divided into subcommittees to study each charge; each subcommittee developed the recommendations in the report. The full committee has not reviewed and adopted recommendations.*

**Background**

In 1995, the legislature created Texas charter schools and authorized the State Board of Education (SBOE) to approve 20 new charter schools as part of the public school system. In 1997, the legislature increased the number of open-enrollment charter schools (OECs) to 100 and created an unlimited number of charter schools that enroll 75 percent of students at risk of dropping out of school (ARCs). No increase in Texas Education Agency (TEA) personnel (2.5 full-time equivalent employees) accompanied this increase of responsibility.

After establishing a rating system for new OECs, the SBOE approved nearly half the OEC applications (41) that scored above the mean. SBOE authorized another application cycle and approved 58 of 82 OEC applicants and 27 of 84 ARCs. Later, SBOE approved more OECs.

In the 1998-1999 school year, charter-school failures, both financially and educationally, made headlines. While these schools owed \$400,000 to the state and vendors, 600 students had to repeat a grade, costing the state an additional \$3.5 million. TEA expects charter schools to receive \$169,218,102 for the 2000-2001 school year. Seven charter schools owe the state \$737,439 in overpayments based on erroneous attendance reports. One problem in funding comes from differences in ISD per-pupil expenditures; as a result, a charter school may receive different amounts of money per student when students come from different school districts.

Both the lack of TEA resources and the independence of some charter operators make accounting for charters difficult. Three charters closed abruptly in August and September 2000, leaving 780 students stranded.

Almost exclusively, problems have developed at charters issued to 501(c)(3) organizations with few violations found in charters issued to governments or institutions of higher education (IHEs). The subcommittee expressed concern that the ambiguity of

the law confuses charter operators resulting in legal violations, and TEA's authority to safeguard the public interest in these matters is unclear. The report noted that frequently charter schools have several family members on their boards and it has led to financial abuses. Another concern in board membership involves for-profit, charter-school management companies' employees serving on charter school boards.

The charter school movement is based on the belief that charter schools will increase students' academic performance. The report, *Texas Open-Enrollment Charter Schools*,

## INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC EDUCATION

*Third Year Evaluation*, found that public school students perform significantly better than OEC students do. Black students score 21.5 percent higher in public schools than OECs, Hispanics, 10.6 percent, and whites, 15.7 percent. Disadvantaged students in public schools outperform OECs by 15.7 percent. According to the OEC report, “it is apparent that performance . . . in charter schools is lower in all areas, particularly in mathematics and writing . . . the lower performance rate observed in charter schools is consistent across all student groups” (p. 32). Six OECs have TEA-designated peer groups for comparison; even in these comparisons, public schools clearly outperform five of the six OECs.

Charter schools enroll more at-risk, minority and economically disadvantaged students. According to the report, three times as many at-risk students learned of charter schools from public school counselors than did non-at-risk students, and may indicate that public schools are funneling at-risk students into charter schools to improve ISD performance.

Each year, 54 percent of charter students do not reenroll in a charter school; most return to public schools.

### **Recommendations**

The legislature should amend charter-school as follows.

- Require charter schools to perform criminal background checks on job applicants and to follow current public-school nepotism laws and competitive bidding laws.
- Clarify the application of local zoning ordinances to charter schools.
- Prohibit for-profit management companies’ employees from sitting on charter school boards.
- Authorize the commissioner of education to intervene on health and safety issues.
- Require minimum training in school law and public accountability for charter school board members and management staff.
  
- Require charter schools to employ as teachers only those with bachelor’s degrees, and to inform parents of teachers’ certification as other public schools do.
- Require TEA to approve all charter contracts with management companies, to pursue claims against those companies when the contract is not fulfilled, and either license charters or develop an approved vendor list of management companies.
- Identify the state as the owner of all student, staff, and public affairs records of a charter, and of all assets of a failed charter that were purchased with public funds.
- Set a statewide average per-student funding method for charter schools.
- Request TEA to study methods to collect timely performance, accountability, and attendance documentation.



## **INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC EDUCATION**

- Request TEA to investigate possible dumping by ISDs of at-risk students into charter schools.
- Issue a moratorium on additional charter schools.
- Require a charter applicant to submit an original description of its educational program and instructional approaches, and not generic or duplicated applications.
- Consider requiring TEA to report additional information on GED-charters.
- Require charter schools to obtain waivers, as do public schools, for limited instructional programs, submit to a modified application process to expand to additional sites or campuses, and meet a minimum size for charter sites.
- Prohibit charter schools from placing any financial or physical requirements on students, and require TEA to investigate violations of open-enrollment admission law.
- Provide additional funding to supervise the charter school system.
- Authorize SBOE to revoke a charter in a timely manner.

# INTERIM DIGEST

## HOUSE COMMITTEE ON PUBLIC EDUCATION

### Charge

**Review the goals of alternative education, disciplinary alternative education, and juvenile justice alternative education programs. Study the organization and functioning of the programs to determine the extent to which they are meeting goals.**

### Background

The Safe Schools Act, 75<sup>th</sup> Legislature, provides for placement of disruptive students into Alternative Education Programs (AEPs) run by ISDs or, in counties with a population of 125,000 or more students, placement of certain adjudicated students into Juvenile Justice Alternative Education Programs (JJAEPs) that are run by the county.

ISDs have increasingly moved students who do not perform well in regular classrooms into AEPs for accelerated instruction and dropout prevention.

### Recommendations

- Use self-defense as a mitigating factor in a disciplinary action.
- Include off-campus violations of the student code of conduct as grounds for disciplinary action.
- Identify persons who should be notified when a student is placed in either an AEP or JJAEP.
- Provide grade-level curriculum including courses needed for graduation to students in either an AEP or JJAEP.
- Establish a minimum period of placement in an AEP or JJAEP.
- Allow citations to be issued to students who violate the Penal Code or the student code of conduct.
- Set types of hearings required before placing a student in a AEP.
- Determine when or if misdemeanor assault should be included in offenses under the Safe Schools Act.

## **INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC EDUCATION**

### **Charge**

**Conduct a comprehensive review of the state's philosophy and policies regarding career and technical education (CT) with attention to students who do not pursue advanced degrees.**

### **Recommendations**

- Require TEA to develop a CT evaluation system by tracking post-graduation employment of CT students.
- Require TEA to coordinate CT programs with Texas Workforce Commission (TWC) regional employment projections and report progress to the legislature.
- Require the State Board of Educator Certification (SBEC) to ensure that teachers and counselors receive training in “problem-solving, decision-making, career choice information.”
- Require SBOE to allow students' CT electives to earn dual credit with post-secondary institutions or programs when appropriate.
- Require TEA to review career-related course curricula and replicate successful programs statewide.
- Require TEA and the Department of Insurance to determine liability for students in work-study programs and identify obstacles discouraging private employers from hiring students.
- Consider partnerships among ISDs, industry, and IHEs as a means to prepare math and science teachers, secure up-to-date equipment, and provide student internships to improve skills and employability of students, especially in rural areas.
- Require ISDs to use advisory boards or site-based management committees to ensure CT curriculum is linked to local workforce needs.
- Require SBEC to report to the legislature on the progress in career-selection course training and life-skill training.
- Require TWC to post information on the Internet about emerging occupations, skill requirements, and salaries, and advise students how to access this information.
- Require each CT program to prepare a student for occupational certification and licensure.
  
- Require TEA to investigate ways for trade and industrial teachers to receive state-of-the-art training to ensure effective instruction.

## **INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC EDUCATION**

- Require all CT students to complete the 10-hour Occupational Health and Safety Administration course to improve employability.
- Require TEA and the Texas Higher Education Coordinating Board to investigate a joint interdisciplinary-engineering degree and teaching certificate to increase the supply of math and science teachers.

### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction, including, particularly, the pre-k, kindergarten and ninth grade grant programs authorized in S. B. 4, 76th Legislature.**

### **Recommendations**

- Require ISDs to get approval from an independent psychiatrist before using a seclusionary time out (putting a disruptive student in a box or closet) and require TEA to adopt rules as stringent as those for mental-health facilities.
- Make experts available to special education teachers to advise teachers on how best to instruct or treat a student with disabilities.
- Require textbooks to be delivered to ISDs two weeks before school starts and distributed to students on the first school day.
- Require publishers to provide accurate shipping dates for back-ordered books so ISDs can select alternatives if necessary.
- Repeal requirement that districts put a unique number on each book.
- Direct the Department of Information Resources to negotiate contract prices for textbook inventory control software for use in public schools.
- Allow ISDs to replace lost or damaged textbooks without paying the state before the textbooks are delivered.
- Instruct ISDs that they do not have to order six years' worth of textbooks and materials at one time.
- Allow school districts where some classes do not have enough textbooks to use their textbook allotments to purchase enough used textbooks or new books for entire classes.
- Review pilot program records to determine cost effectiveness of students having a textbook to take home and the school to have a classroom set of texts.
- Prohibit a publisher from giving any non-textbook incentives to districts or teachers for choosing its texts.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON PUBLIC EDUCATION**

- Consider a pilot program to allow an ISD that purchases textbooks costing less than the maximum allowed price to use the balance to purchase other materials eligible for purchase with textbook funds.
- Allow publishers to ship textbooks directly to ISDs to avoid transportation and storage costs at state depositories and require contract deadlines to be based on delivery, not shipment.
- Consider a pilot program using electronic textbooks.

**HOUSE COMMITTEE ON PUBLIC HEALTH**

**Charge**

**Review the role of the pharmaceutical industry in the delivery of health care in Texas. The review should identify pharmaceutical cost-drivers and opportunities to reduce costs, assess the role of pharmacy benefit managers and pharmacies, and address patient-specific issues, as well as other issues identified by the committee.**

**Recommendations**

- Create a bulk pharmaceutical purchasing program that takes into consideration the affect on wholesalers, pharmacies, employers, research, hospitals, and uninsured consumers. Review drug-purchasing data from all state agencies with the goal of establishing a drug purchasing price range.
- Include publicly funded insurance programs in any state bulk purchasing program and require full disclosure of pricing information from wholesalers who do business in Texas.
- Require state reporting of pharmaceutical manufacturer pricing information that is submitted to the Health Care Finance Administration (HCFA).
- Make unused prescription drugs available to charity care organizations. Provide greater physician and patient access to patient assistance programs that are funded by the pharmaceutical industry.
- Require the Texas Department of Insurance (TDI), the Office of the Attorney General (OAG), and the Texas Department of Health (TDH) to evaluate existing pharmaceutical buying groups.
- Establish pharmaceutical coverage for specified low income senior populations. Expand Medicaid coverage to include more adults in the near-senior and/or senior age groups. Examine insurance-based programs for seniors above the federal poverty level without prescription drug coverage.

## **INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC HEALTH**

### **Charge**

**Review issues related to the increased use of new technologies in the delivery of health care. The review should identify opportunities and risks associated with the sale of medical devices and drugs over the Internet, and the feasibility of expanding telemedicine to improve care in underserved areas, as well as regulatory and privacy issues presented by these new technologies.**

### **Recommendations**

- Allow medical sites providing telemedical consultation, but not affiliated with a Texas medical or osteopathic school, to capture Medicaid reimbursements. Expand access to teledentistry by allowing dental hygienists with an access to care permit to perform preventive care and assist in locating a dentist for patients in rural and underserved areas.
- Continue the Telemedicine Advisory Council (TAC) and add the responsibility of tracking the expansion of telemedicine to TAC.
- Expand Medicaid reimbursement for additional health services including dental consultations and mental health consultations. Remove barriers prohibiting Medicaid reimbursements to physicians when a patient is presented by the physician's registered nurse.
- Expand the Texas Infrastructure Fund (TIF) Grants to allow for-profit health facilities to receive TIF funding. Require the Health and Human Services Commission (HHSC) and TIF Board to develop minimum standards for operating telemedicine systems in Texas.

### **Charge**

**Evaluate the role of disease management in public health programs that serve chronically ill populations.**

### **Recommendation**

- Develop both rural and urban studies on asthma disease management. The study would encompass Bell, Bexar, and their immediate surrounding counties.

## **INTERIM DIGEST HOUSE COMMITTEE ON PUBLIC HEALTH**

### **Charge**

**Study issues arising from hospital system sales, conversions, partnerships and mergers, including the impact on health care in medically underserved and rural communities, and on the level of charity care provided.**

### **Recommendations**

- Require TDH to publish an annual “Access Manual” that lists the nonprofit hospitals in Texas with brief summaries of their charity care policies and community benefits work. Improve accountability to communities served by asking nonprofit hospitals to publish summary notices of their charity care policies in local publications.
- Create incentives for access expansion by linking reimbursement from the Tertiary Care Fund to the provision of charity care and community benefits by nonprofit hospitals.
- Create new incentives for nonprofit hospitals to contract with local counties, with special focus on rural and underserved counties.
- Allow nonprofit hospitals to receive credits towards meeting their charity care and community benefits obligations by contributing to a new “State Access Fund,” which will be used to finance access expansion initiatives in underserved areas.
- Initiate an “access levy” on certain inpatient hospital revenue that goes into the new State Access Fund, which will be used to finance access expansion initiatives in underserved areas.
- Commission a sample appraisal of nonprofit hospitals to determine the value of their state tax exemptions. Streamline standards in the charity care law to improve accountability and ensure maximum access to health care services, especially for the uninsured and underinsured.

### **Charge**

**Examine the requirements imposed on emergency medical service providers in rural areas. Determine whether requirements encourage or hinder the provision of services.**



# INTERIM DIGEST

## HOUSE COMMITTEE ON PUBLIC HEALTH

### Recommendations

- Allow the Advisory Council, established under H.B. 2085, 76<sup>th</sup> Legislature, to advise TDH on emergency issues.
- Develop strategies to improve initial and continuing training and certification requirements for rural and frontier areas.
- Allow counties to reimburse Emergency Medical System (EMS) providers under the indigent Health Care Act at the Medicaid rate. Consider the standardization and simplification of EMS terminology and classification of providers. Appropriate funds to TDH for the EMS Local Projects Grant program.

### Charge

**Conduct active oversight of the Medicaid Managed Care Program.**

### Recommendations

- Extend the moratorium on Medicaid managed care rollouts until July 1, 2003. Direct HHSC to consider the unique issues of rural health care.
- Require HHSC to convene a long-term workgroup to develop alternatives to current Medicaid managed care models.
- Improve enforcement of prompt pay contract requirements to ensure that Medicaid managed care providers are paid on time.
- Streamline Medicaid enrollment and guarantee eligibility for 12 months for all Medicaid enrollees regardless of changes in income over that period.
- Improve Medicaid reimbursement rates for Managed Care Organizations (MCOs) and improve the Medicaid managed care data systems.

**HOUSE COMMITTEE ON PUBLIC SAFETY**

**Charge**

**Evaluate the need for county or municipal law enforcement officers to conduct motor carrier safety inspections.**

**Recommendations**

- Amend Section 644.101 of the Transportation Code to include that a police officer of a municipality of 25,000 or more, any part of which is located in a county with a population of 1.8 million, may be certified by the Department of Public Safety (DPS) to inspect trucks.
- Amend Section 644.101 of the Transportation Code to include that a sheriff or sheriff's deputy of a county with a population of 270,000 or more is eligible for certification under this section. Also, the sheriff or sheriff's deputy must be recertified biennially in order to enforce this chapter.
- Implement a ninety-day pass given to trucks that pass safety inspection. This would help responsible truck companies continue their service and would lessen interference with interstate or intrastate commerce.

**Charge**

**Review the “One Call to Dig” program to determine how well it is working.**

**Background**

The debate surrounding the “One Call to Dig” program concerns whether Texas should divide the one-call system into regions. Currently, there are three one-call systems operating in Texas: Texas One Call/One Call Systems, One Call Concepts, and the Texas Excavation Safety Systems. There is no regional breakdown of the service, and the market is open to choice. Texas Excavation Safety Systems is a non-profit organization, whereas the others are for-profit.

**Recommendations**

- Re-evaluate the current non-regional system to determine the best option for the State of Texas.
- Urge against excavators establishing a “ticket life” of 30 calendar days after giving notice to be considered a standard practice.
- Eliminate the \$50 annual registration fee for Class A facilities and allow the One Call Board of Texas to set the fee for notification centers at not more than \$.10 per incoming call rather than the current \$.01.

## INTERIM DIGEST

### HOUSE COMMITTEE ON PUBLIC SAFETY

- Define “legal holiday” as one of the six holidays listed in the Texas Department of Public Safety (DPS) regulations: January 1<sup>st</sup>, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, and Christmas Day.
- Provide for positive response by the facility owner/operator to let the excavator know if there are lines in the area or not.
- Ensure that penalties are equitably administered among excavators, facility owner/operators, and notification centers. Fines should be meaningful and designed to provide incentive to promote safety training and education as well as deterring habitual or flagrant violators.
- Recognize the right of all parties to recover damages and costs resulting from non-compliance.

#### Charge

**Study all issues surrounding the use of social security numbers to obtain a driver’s license. The study should consider federal laws and rules as well as issues related to privacy and identity theft.**

#### Recommendations

##### *Governmental*

- Prohibit the collection of social security numbers by governmental agencies for any purpose other than those required by federal law.
- Prohibit the sale or disclosure of social security numbers by state agencies to private entities.
- Require state agencies that are required by federal law to collect social security numbers to provide individuals with a citation to the federal statute that requires the disclosure and an explanation of the purpose for which the number will be used.

##### *Private sector*

- Prohibit businesses from refusing to provide a good or service to an individual when the individual refuses to provide a social security number that is not required by law.
- Require the business requesting the social security number to inform the individual whether furnishing the number is voluntary or mandatory under law. If mandatory, the business should provide to the individual the citation to the law and the purpose for which the number is to be used.
- Provide civil penalties for businesses that refuse to comply with the aforementioned directives.

## **INTERIM DIGEST**

### **HOUSE COMMITTEE ON PUBLIC SAFETY**

- Prohibit any business required by federal law to collect social security numbers from disclosing the numbers to third parties. Provide for civil penalties for failure of businesses to comply.

#### **Charge**

**Review the manner in which driver's license information, including arrests, convictions and other personal information, is made available for public safety and commercial purposes. The review should consider the parties who may obtain such information, the security information, and the extent to which the system meets the needs of the requested parties.**

#### **Recommendations**

- Repeal Section 730.007(a)(1)(C), Transportation Code.
- Amend Section 730.007(a)(1)(E), Transportation Code, to state that personal identification be removed from the lists used for research and production of statistical reports.
- Repeal Section 730.007(a)(1)(K), Transportation Code, to prevent third parties from circumventing the law to obtain personal information.
- Repeal Section 730.007(a)(1-L), Transportation Code.
- Impose a Class A Misdemeanor if personal information is disclosed to, resold to, or shared with a third party, unless specifically authorized under provisions of Section 730.007 Transportation Code.

**HOUSE SELECT COMMITTEE ON RURAL DEVELOPMENT**

**Charge**

**The Select Committee on Rural Development shall conduct a comprehensive study of all issues pertaining to the current and future viability of rural areas and small cities and towns in Texas. The committee shall develop plans to maintain and improve the economic, social and cultural life of rural Texans. The committee's studies shall include rural industries, transportation, telecommunications, environmental and natural resource issues, health and human needs, housing, and any other matters substantially affecting the quality of life in rural Texas.**

**The committee's report should recommend both short-term and long-term strategic changes in state policy, rules and regulations.**

**Recommendations**

- Create an office of rural affairs to assure a continuing focus on rural issues, monitor governmental actions affecting rural Texas, research problems and recommend solutions, and coordinate rural programs among agencies.

based on an informal survey by the committee, it appears that 10 states have some form of a rural affairs office. The group includes a number of major states such as California, New York, Florida, Pennsylvania, and Illinois.

the committee believes the Community Development Block Grant (CDBG) program has the potential to serve as the basis for such an office. This federal program, administered by the Texas Department of Housing and Community Affairs, provides more than \$80 million a year to Texas counties of fewer than 200,000 people and Texas cities and towns of fewer than 50,000.

- Recommends a comprehensive and affirmative state effort to help communities receive leadership training.

The report also discusses telecommunications services for rural areas, industrial and tourism development, and conservation of natural resources, but makes no specific recommendations in these areas.

**HOUSE COMMITTEE ON STATE AFFAIRS**

**Charge**

**Study the authority of state and local governments to require cable television companies to provide access to competitors and to affect the rates, terms, and conditions under which access is provided. Consider the speed of change in the telecommunications industry and the implications of the state assuming new regulatory responsibilities in this industry, including the question of whether any or all providers of broadband service should be required to provide access to competitors.**

**Background**

The cable industry began in the 1940s to provide television service in remote and mountainous areas. As the industry grew, so did more regulation of the cable market, which ultimately led to deregulation with the 1984 Cable Act. Texas began changes in its telecommunications industry with H.B. 2128 in 1995, which amended the Public Utility Regulatory Act (PURA) of 1997 to open the industry to competition.

The Federal Telecommunications Act (FTA) of 1996 overhauled national regulations and removed various barriers in cable, cellular, and residential/business phone markets. It primarily opened up local telephone markets, but did give added regulatory relief to the cable industry.

The telecommunications' market, including cable and broadband, is moving towards open access, but there exists the potential for telecommunications companies (cable and phone companies) that control the wires to discriminate against the content of non-affiliated companies, including competitors. Presently, 7 in 10 households use cable. Many communities are concerned about the best approach to address the corporate entities emerging from the recent transformations in the telecommunications market.

With the recent trend of the merging of telecommunication services, such as telephone and cable, it is becoming more difficult to ensure fair competition for the service providers and adequate protection for consumers. Services such as high speed Internet access via cable modem or DSL (digital subscriber lines) via phone lines are opening up new business opportunities and new concerns about fair competition for policy makers.

**Findings**

The committee:

- Finds that the Public Utility Commission (PUC) has, at best, limited authority to regulate cable modem service under PURA as it is currently written, even if it were determined that cable modem service is indeed a telecommunications service under FTA 96.

## INTERIM DIGEST

### HOUSE COMMITTEE ON STATE AFFAIRS

- Finds that open access legislation could address regulatory disparities between cable modem service and DSL. The state lacks the authority to enact open access requirements for wireless and satellite broadband providers.
- Finds that any open access legislation passed by the Texas Legislature most likely would not take effect before September 1, 2001, and might be delayed by PUC rulemaking activities or litigation.

#### Charge

**Conduct active oversight of the agencies under the committee jurisdiction, including monitoring the implementation of S.B. 560, and changes in telecommunications markets resulting from the legislation.**

#### Background

The 76<sup>th</sup> Legislature passed important bills regarding the telecommunications industry. S.B. 560 tackled the wire access fees that are charged to competitors by Southwestern Bell and GTE. S.B. 86 fortified consumer protections in the phone industry against abuses such as slamming, while H.B. 1777 established guidelines for franchise fees charged to telecommunications providers.

#### Findings

The committee:

- Finds that the implementation of S.B. 560, S.B. 86, and H.B. 1777, has been largely completed by the PUC. Most of the outstanding issues will be resolved by early 2001. Although there are differences of opinion about the outcomes of the PUC's rulemaking proceedings, it appears that the rules encourage new entrants into the market and effectively manage the transition from rate of return regulation to market place competition.
- Finds that until competition has fully evolved, strong minimum standards of service quality, customer service, fair business practices will still be needed to ensure high-quality services to customers and a healthy marketplace. As competition and technology continue to evolve, it will become necessary to revisit state laws and regulations to ensure that they provide adequate protections while still fostering the market.
- Finds that competition is not as evident and may not be as robust for some Texas consumers, especially individuals who use few optional services, make few long distance calls, have low incomes, or live in high-cost or rural areas of the state.
- Finds that additional regulation may be needed to address the siting of telecommunications facilities, particularly wireless towers, in areas of the state that are not covered by municipal zoning laws. Under federal law, the state may provide zoning authority or forms of process-based relief to mitigate unregulated placement of facilities in unincorporated areas of counties.

**Charge**

**Review the current state of privacy laws in Texas as they relate to businesses' or government's ability to disseminate personal information without prior written permission.**

**Findings**

The committee:

- Finds that a systematic review of state agencies' data collection, storage, and dissemination practices would greatly assist efforts to protect personal information held by government.
- Finds that the effectiveness of online privacy measures is limited by the interstate and global nature of the Internet. However, all state government Web sites could be covered by a law requiring privacy policies or determining the permissible uses of data collected online.

**Charge**

**Study the nature and extent of lobby influence on the legislative process.**

**Findings**

The committee:

- Finds that current law is generally adequate to provide for public scrutiny of lobbyists' activities, particularly since disclosure reports are made available on the Internet. Some clarifications and expansions of current law may be required, particularly with respect to proper disclosure of certain financial arrangements.
- Finds that the state's current policies related to post-employment activities make it clear that a state official or employee cannot "feather the nest" by taking official actions for the purpose of securing favor from a potential future employer.

**Charge**

**Conduct active oversight of the Department of Information Resources, Texas Ethics Commission, General Services Commission, Texas Commission on Human Rights, Texas Incentive and Productivity Commission, Office of Public Utility Counsel, State of Texas Aircraft Pooling Board, Texas Veterans Commission, and Adjutant General's Department.**



**INTERIM DIGEST  
HOUSE COMMITTEE ON STATE AFFAIRS**

**Recommendation**

No recommendations were made.

# **INTERIM DIGEST HOUSE COMMITTEE ON STATE , FEDERAL, AND INTERNATIONAL RELATIONS**

## **HOUSE COMMITTEE ON STATE, FEDERAL, AND INTERNATIONAL RELATIONS**

### **Charges**

**Study the tourism benefits of a program linking tourist destinations by signage, maps, trails, and other means. Consider how such a program should be coordinated, in light of different agencies' responsibilities for tourism and transportation and for natural, cultural, and historical sites.**

**Study the demographics of Texas' population of military veterans. Compare and contrast veterans' demographics with those of the general population to determine which current or prospective programs have the most benefit.**

**Review the practices used by other states to designate "state artists" and "state poets." Consider the value of having a permanent procedure for making such designations in Texas.**

**Assess the potential of community telecommunications networks and technology centers for tourism and business development.**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

### **Recommendations**

- **Create a Tourism Coordinating Council composed of the Texas Department of Economic Development, the Texas Department of Transportation, the Texas Parks and Wildlife Department, the Texas Historical Commission, the Texas Commission on the Arts, and tourism industry representatives to ensure better cooperation amongst the major state agencies and increase the efficiency of promotion efforts. The council will issue a report to the legislature on September 1 of every even-numbered year regarding the status of the state's tourism industry and recommendations for improvement.**
- **Improve signage and all forms of marketing the state and its attractions. This includes coordinating signage and promotion efforts among all state agencies and with local tourism partners and providing tourism links on agencies' Web sites. The Texas Department of Transportation should create a state map with improved markings of the state's cultural and historic sites and state parks.**
- **Appropriate funds to the Texas Veterans Commission (TVC) for the training of County Veterans Service Officers and their assistants so that the TVC may better serve the aging veterans population.**
- **Urge the federal government to maintain its commitment to America's military retirees by providing lifetime health care to military retirees over the age of 65.**

## **INTERIM DIGEST HOUSE COMMITTEE ON STATE , FEDERAL, AND INTERNATIONAL RELATIONS**

- Urge the federal government to study how it could better serve military veterans and veterans' families by providing military honors at all honorably discharged veterans' funerals.
- Implement a permanent procedure for designating a state artist and state poet through the creation of the Committee to Select a State Poet Laureate and a State Artist.
- Continue the Telecommunication Infrastructure Board (board) in existence until 2005, as specified in current law. The state should monitor changes in the telecommunications and networking sectors of the economy to determine whether a government subsidy continues to be required to assist the eligible entities and possibly others in gaining connectivity.

The board should continue promoting and sponsoring events that educate the public and local governments about community networks and their benefits to small communities. Other agencies involved with the telecommunications industry and information management should consider ways to do the same.

- Require the Texas Department of Economic Development and the other state agencies involved with tourism to pursue joint marketing of the state's tourism industry via electronic methods.

# **INTERIM DIGEST**

## **HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES**

### **HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES**

#### **Charge**

**Evaluate the need for hunting license exemptions for wildlife that pose an imminent threat to personal property or human health and safety.**

#### **Background**

A landowner in Texas, under current law, must possess a hunting license in order to take any animal on their own property, even a rattlesnake. In past legislative sessions, bills have been introduced on behalf of individual constituents or singular groups that proposed hunting license exemptions for specified individuals to kill specified species of wildlife resources under special circumstances.

#### **Recommendations**

No recommendations were made.

#### **Charge**

**Study the management of state wildlife on private property.**

#### **Background**

Texas recognizes the state's ownership of wildlife. The legislature has directed the Texas Parks and Wildlife Department (TPWD) to conserve an ample supply of wildlife resources on a statewide basis to insure reasonable and equitable enjoyment of the privileges of ownership and pursuit of wildlife resources. In addition, they provide technical guidance to landowners in matters concerning wildlife resources.

#### **Recommendations**

No recommendations were made.

#### **Charge**

**To review issues related to reciprocal license agreements with neighboring states and reduced-price fishing licenses for persons over 65.**

#### **Background**

The responsibility for establishing reciprocal hunting and fishing privileges with other states is delegated to TPWD under Parks and Wildlife Code, Chapter 41. The decision by TPWD to eliminate reciprocal fishing license privileges for seniors had its roots in the creation of the reduced priced fishing license. The passage of H.B. 1785 prompted numerous comments from constituents and legislators concerning the equity of charging some seniors from Texas while allowing senior non-residents from Oklahoma, Louisiana,

## INTERIM DIGEST

### HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES

and Kansas to fish for free. In August 1999, TPWD eliminated their reciprocal agreements with Oklahoma, Louisiana and Kansas in response to those comments. Since August 1999, TPWD, as well as many legislators, have received complaints over the elimination these reciprocal agreements.

#### Recommendation

- The committee is satisfied TPWD has adequately addressed all concerns regarding reciprocal agreements and reduced-priced senior licenses, and therefore, has no further recommendation to present to the 77<sup>th</sup> Legislature. The committee will continue to monitor the TPWD's efforts to reinstate the reciprocal agreement with Louisiana.

#### Charge

**To consider a general policy governing the extent to which the state parks system should be financially self-supporting. Consider additional policies that might fairly allocate costs between the state and local entities for sites that are primarily of local interest.**

#### Background

TPWD operated 123 parks in 1997, and reported that 31 parks were “operationally profitable.” Operating expenses do not include costs for maintenance, equipment, purchase and support services. Considering all costs, the 31 parks had \$2.4 million more in expenses than direct revenue collected. In 1996, the State of Texas spent only \$3 per capita on all state parks and recreation. As reported by *Texas Outdoors: A Vision for the Future*, Texas ranks 49<sup>th</sup> in the nation for per capita spending on state parks.

The State Auditor maintained that static funding levels, rising personnel costs, rising operating costs, and an increased number of parks have diminished the ability of the parks system to address all needs. As new parks and programs become funding obligations in the future, the overall pool of current resources available for existing parks is further diminished.

#### Recommendation

- Encourage members of the legislature to dedicate additional financial resources to TPWD in order to protect the rich and diverse cultural, historic, and ecological resources of Texas. In addition to improving facility maintenance, and acquiring additional conservation and recreation lands, TPWD would have the potential to draw down new federal funding if they were to receive additional appropriations.

#### Charge

**Conduct active oversight of the agencies under the committee's jurisdiction.**

#### Recommendations

**INTERIM DIGEST  
HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES**

No recommendations were made.

# INTERIM DIGEST

## HOUSE SELECT COMMITTEE ON TEACHER HEALTH INSURANCE

### HOUSE SELECT COMMITTEE ON TEACHER HEALTH INSURANCE

#### Charge

The Select Committee on Teacher Health insurance shall develop options for teacher health insurance plans. Options should be scalable to take account of available resources, and any proposals should address the actuarial problems of TRS-Care.

#### Background

Over the last 25 years the legislature has conducted many studies on health insurance for public school employees. The legislature has deliberated on several bills.

In 1975, the legislature created the uniform group insurance program (UGIP) for state employees, specifically excluding higher education employees.

In 1977, the legislature added benefits for higher education employees. A bill to add school employees was filed.

In 1981, a bill to provide health benefits for active TRS members was passed by the legislature, but with no appropriation; the governor vetoed it.

The next session, the legislature approved a bill to create a health benefits program for retired school employees that became TRS-Care in 1986.

In 1991, the legislature passed a bill directing school districts to provide health insurance comparable to UGIP benefits for their employees. It would allow districts to participate in the Employee Retirement System (ERS), but a statewide plan failed, leaving teachers with whatever plans a district chose, resulting in a wide range of costs and benefits throughout the state.

In 1997, the legislature directed TRS to adopt rules on comparability and review districts' health insurance plans.

The 1,200 school districts offer 2,600 coverage options, of which one-third are comparable to UGIP, covering 38 percent of their 534,592 employees. Twelve percent waived coverage, and 50 percent enrolled in non-comparable plans.

Retired school personnel have coverage under TRS-Care that began in 1985, but the 127,00-participant program faces deficits larger than the total combined premiums paid by retirees and the state contribution. The best TRS-Care plan, TRS-3, does not compare favorably to ERS options. The three TRS plans have the same services, but deductibles, payment limits and annual out-of-pocket limits are quite high.

#### Options

- Status Quo: Continue TRS-Care in its current form, which would require supplemental state contributions of \$158 million for 2002, increasing to \$376 million in 2005.

## **INTERIM DIGEST**

### **HOUSE SELECT COMMITTEE ON TEACHER HEALTH INSURANCE**

- Plan 1: Create a UGIP look-alike for TRS retirees, but do nothing statewide for active school employees. ERS already has a statewide system of providers that could contract with TRS. The state would pick up retirees' share and pay half of the dependents premiums.

A TRS plan identical to ERS would cost the state \$583 million in 2002, rising to \$832 million in 2005.

- Plan 2: Create a UGIP-like plan for active and retired school personnel and their dependents with the state paying the total employee premium and half of dependent premiums. The benefits would be uniform costs and services statewide and reduced district administration and benefits costs, freeing district revenues to be used in education or tax relief. This option might make school employees' children ineligible for the children's health insurance program (CHIP) if the state contributed more than \$10 per month to dependent children's coverage.

After paying \$12 million to establish the plan in 2002, state cost would start at \$3.3 billion, rising to nearly \$5 billion in 2006.

- Plan 3: Create a statewide health insurance plan for active and retired school employees that mirrors UGIP except that the state (60 percent) and school district (40 percent) would share the employee premium, and the state and retiree would share that premium based on length of retiree's service. If the state were to pay less than 60 percent, school districts with low claims histories would be able to find insurance outside the pool. Because dependent coverage is not included, CHIP would not be affected. UGIP did not pay 50 percent of dependent coverage until almost 20 years after it started.

For fiscal year 2003, the state share would be \$1.6 billion, district share \$786 million and \$143 million from retirees. By 2007, the state share would increase to \$2.8 billion, district share to \$1.24 billion, and \$287 million for retirees.



## INTERIM DIGEST

### HOUSE SELECT COMMITTEE ON TEACHER HEALTH INSURANCE

- Plan 4: Create a uniform group health insurance plan that provides basic coverage for active school employees, and allow school districts to offer and fund supplemental plans through the state pool. Under the most basic plan, employees would have a \$1,500 in-network or \$3,000 out-of-network deductible paid by the client before benefits would begin. After that, the plan would pay 80 percent of in-network and 60 percent out-of-network services. Prescription drugs would not be included.

For fiscal year 2003, Texas Association of School Boards estimated this plan to cost \$200 per enrollee or \$1.3 billion for active school employees only, no retirees.

TASB estimated retirees could be brought into the plan with a cost increase of 30 to 35 percent.

This option does not cure the actuarial problems in TRS-Care. If retirees were rolled into this option, the benefits would be significantly lower than under TRS-Care. If individual retirees can buy supplemental insurance, adverse selection would probably occur.

#### Recommendations

- Recommend that any plan group active school personnel and retired TRS members in one statewide health insurance program; Plans 2 and 3 meet this standard and 4 could be altered to include both groups.
- Recommend that any plan be comparable to UGIP for state employees. Plans 1, 2, and 3 meet this standard.

Current law requires school districts to provide plans comparable to UGIP.

The state does not have to fund the entire cost of the plan or fund at the same level as it does UGIP; coverage and funding levels could develop over time. The goal should be “quality, affordable health insurance coverage.”

- Recommend a plan be administered separately from the UGIP for state employees, if any characteristics of the plans differ. Plans 1, 2, 3, and 4 meet this requirement.
- Recommend structuring a plan to avoid adverse selection, when school districts negotiate insurance coverage on their own and select the most cost effective option, leaving only districts with high use and cost histories participating in the state plan. Plans 1, 2, 3 and 4 meet this requirement.

## **INTERIM DIGEST**

### **HOUSE SELECT COMMITTEE ON TEACHER HEALTH INSURANCE**

Voluntary plans eventually will become subject to adverse selection; to overcome adverse selection a plan either must have mandatory participation or a significant financial incentive for districts to participate.

- Recommend that any plan should have a designated trustee with authority and responsibility to design, implement, supervise and manage the plan.

TRS is the appropriate agency because districts already make payments to it, and it currently administers a small health plan for retirees.

TRS should work with ERS to get the benefit of its experience in UGIP.

- Recommend that any new statewide plan has a one-year start-up time prior to paying claims and receives funding for the start up costs. Plans 1, 2, 3, and 4 could do this.
- Recommend that any plan offer all school districts the same health insurance coverage. Plans 1, 2, 3, and 4 could include this feature.

Because health insurance is an employment benefit, the state should provide the same benefits without regard to the property wealth of any district.

**HOUSE COMMITTEE ON TRANSPORTATION**

**Charge**

**Study ways the state and counties can ensure safe, adequately funded county road and bridge systems, consistent with encouraging commerce and economic growth.**

**Recommendations**

- Increase assistance to counties through the appropriations process or fees rather than increasing the amount counties receive from the State Highway Fund (Highway Fund). Participation should be restricted to counties that fully utilize the optional road and bridge fee and comply with the comptroller's reporting requirements for Lateral Road Fund dollars.

Regarding the "2060" Permit which allows a truck weighing up to five percent over its legal gross weight or ten percent above its legal axle limit to travel over any state or county road or bridge, the following recommendations are made:

- Raise 2060 Permit fees and creating more county-specific permits, thereby providing additional revenue to the counties.
- Create a company-specific 2060 Permit to complement the current truck-specific permit. This would give trucking companies with large fleets flexibility in their day-to-day business operations.
- Remove weight posted bridges from the 2060 Permit, and allow only vehicles under the maximum posted weight to use the bridge, regardless of permit status.

Trucks heavier than the bridge's capacity could only use the bridge if no other reasonable route is available and those loads would have to be permitted by Texas Department of Transportation (TxDOT).

**Charge**

**Study the advantages and disadvantages of a graduated driver's license program, including the experience of states that have recently enacted such programs.**

**Recommendation**

- Work with the Department of Public Safety (DPS) and take steps to implement a graduated driver license system.

**Charge**

**Examine highway funding issues in light of the combined impact of rapid transportation growth and increased NAFTA traffic. Monitor state and federal developments related to funding and planning of NAFTA corridors.**

# INTERIM DIGEST

## HOUSE COMMITTEE ON TRANSPORTATION

### Recommendations

- Rather than raising the motor fuels tax, enable the Highway Fund to recoup the portion of the five-cent motor fuels tax increase that was diverted to the General Revenue Fund in 1991.

Allow counties to retain five percent of the vehicle sales tax in the same manner as they did prior to 1991.

To minimize the impact on the General Revenue Fund, re-capture on an incremental basis through the next biennium. After the biennium, the change should be permanent.

- Examine DPS's budget thoroughly to insure that only activities specifically related to policing public roads are funded with motor fuels tax revenue.

Incorporate into this study the funding strategies identified by TxDOT.

- Re-direct revenue related to transportation-related programs (motor vehicle inspections, driver's license fees, and driver record information fees) to transportation uses to offset most of the DPS allocation from the Highway Fund in a manner that avoids a negative effect on the General Revenue Fund.

Implement this incrementally, e.g., \$50 million per year for the next four years.

- Avoid authorizing the use of Grant Anticipation Revenue Vehicle (GARVEE) bonds.
- Study further the proposal to issue general obligation bonds and keep them in a revolving account, keeping in mind Texas' traditional reliance on a pay-as-you-go system.
- Increase the use of toll roads and work with the Texas Turnpike Authority (TTA) to find other ways to increase the use of toll roads.

Authorize, through constitutional amendment, the use of a portion of state highway funds for toll projects allowing the TTA to leverage the initial stages of toll projects and accelerate toll road construction.

### Charge

**Conduct active oversight of the agencies under the committee's jurisdiction, including effects of legislation increasing speed limits.**

### Recommendation

- Study the statewide accident and citation statistics when they become available and take appropriate action at that time.

**INTERIM DIGEST  
HOUSE COMMITTEE ON TRANSPORTATION**

**HOUSE COMMITTEE ON URBAN AFFAIRS**

**Charge**

**Study the needs of volunteer fire departments, and evaluate their capacity to fulfill their mission of protecting the public.**

**Background**

Volunteer firefighters provide a valuable service to millions of Texans by providing fire protection and fighting the majority of wildland fires, which makes them responsible for vast expanses of land in rural Texas. Currently, volunteer firefighters outnumber paid firefighters two-to-one, with more than 37,000 volunteers. The Texas Forest Service (TFS) states that \$31 million is a conservative estimate of annual cost savings associated with the volunteer fire service. The number of volunteer firefighters is decreasing as the need grows to fight fires in rural and suburban areas and volunteer fire departments cite the need for additional funds for infrastructure, training, and benefits to enhance both recruitment and retention in their ranks.

Health and Safety Code Chapters 794 and 775 authorize the creation of Rural Fire Prevention Districts (RFPDs) and Emergency Services Districts (ESDs) respectively, to provide a funding source for volunteer fire fighters by levying a tax (subject to voter approval) on the value of property in the district. The districts have very similar establishment processes, but a major difference is their allowable rate of taxation. RFPDs' maximum tax is three cents per \$100 valuation of property in the district, and ESDs, may, at a maximum, levy a tax of ten cents on each \$100 valuation (exceptions for both district types are made for Harris County).

**Recommendations**

- Expand the long term financing ability of RFPDs/ESDs. The committee recommends extending the maximum repayment period to ten years for capital items and twenty years for real property acquisition and facility construction.
- Authorize a "Validation Clause" to ensure the ability of ESDs to incur bond debt. The committee recommends approval of a "savings" or "validation" clause to eliminate the need for ESDs to provide creation documentation.
- Revise ESD statutes to ensure conformity with state statutes on bond indebtedness, by including in the Health and Safety Code, Chapters 794, 775, and 776, references to Government Code, Chapters 1201 and 1207.
- Allow RFPDs and ESDs to merge/exchange territory through interlocal agreements.

## INTERIM DIGEST

### HOUSE COMMITTEE ON URBAN AFFAIRS

- Revise RFRD and ESD statutes to ensure uniformity.
- Provide tort protection for volunteer firefighters in their official capacity, ensuring non-liability for volunteer firefighters, by amending the Texas Civil Practice and Remedies Code, Section 78.001, modeling it after provisions in the Texas Civil Practice and Remedies Code, Section 78.0532.
- Raise the cap on the tax levy for RFPDs/ESDs, which would require a Constitutional Amendment, authorizing an increase in the cap to fifteen cents and ten cents per \$100 valuation for ESDs and RFPDs respectively.
- Allow ESDs and RFPDs to levy full taxes in overlapping areas by amending the Health and Safety Code, Sections 775.018 (a-b), allowing an ESD to levy the full ten cents regardless of whether any area in the district is also included with in an RFPD.
- Allow ESDs to overlap and authorize each to levy the maximum tax rate by amending Health and Safety Code, Section 775.020, which expressly prohibits overlapping ESDs.
- Restrict ESDs/RFPDs to a total of twenty cents per \$100 valuation. Should any of the above recommendations be enacted, the committee recommends that the Health and Safety Code be amended to ensure that a property owner's total tax paid to his/her local RFPD(s) and/or ESD(s) may not exceed twenty cents per valuation.
- Provide additional funds to:
  - the Local Services Division at Texas Department of Housing and Community Affairs (TDHCA) for two Full Time Employees (FTEs) to coordinate and provide technical support of RFPDs/ESDs;
  - Texas A&M University—Texas Engineering Extension Service (TEEX) to provide satellite dishes for volunteer departments. With an estimated 1,600 volunteer departments, the total cost of this program should be \$320,000; and
  - the Texas Emergency Service Training Institute at Texas A&M for eight additional instructors and mobile training aids .
- Encourage departments to use the design/build concept in capital projects.
- Encourage the Texas Department of Health to develop a rule to allow EMS-certified volunteer firefighters, under the guidance of a physician, to transport a victim to a hospital in the event that ambulatory care is unavailable or the injury is life threatening. The rule should include liability protection for the volunteer firefighters.
- Request that the State Fireman's and Fire Marshals' Association, in conjunction with the Texas Commission on Fire Protection, provide the committee with an assessment of the needs of the volunteer firefighters and a recommendation for a volunteer firefighter reporting system which includes enforcement provisions.

## **INTERIM DIGEST HOUSE COMMITTEE ON URBAN AFFAIRS**

### **Charge**

**Review the data used by the TDHCA to make decisions affecting affordable housing. Determine the adequacy of the data as it relates to the scope, timeliness, and accuracy of information.**

### **Background**

The TDHCA mission, “To help Texans achieve an improved quality of life through the development of better communities,” is to be accomplished through the administration of federal housing and community development programs, Low Income Housing Credits, state bond programs, and the State Housing Trust Fund. TDHCA’s primary focus in the past has been administering the flow of funds with planning documents. The planning documents have evolved into “statewide” documents because the department is a state agency that administers housing and community development funds throughout the state.

### **Recommendations**

- Broaden the scope of TDHCA to meet the increasing affordable housing demand in Texas, and promote intimate work relationships between TDHCA and entitlement cities, participating jurisdictions, USDA, community development corporations, public housing authorities, and local banks in order to leverage funds in a more comprehensive manner.

Create a new position entitled *Regional Development Coordinator* through a working group of TDHCA, United States Department of Agriculture (USDA), Councils of Government, Texas Community Development Corporations, Texas Low Income Housing Information Service, and Texas Rural Communities Foundation. Each of the eleven state service regions would have a coordinator, who would be responsible for working with local stakeholders (local governments, nonprofits, lending institutions, and the private sector) to develop strategies to address housing and community development needs in each region

- Request TDHCA to report back to the committee in April 2001, on the implementation of the TDHCA/Texas Low Income Housing Information Service joint recommendations.

### **Charge**

**Assess the advantages and disadvantages of manufactured housing as one means to alleviate affordable housing deficits.**

### **Background**



## **INTERIM DIGEST HOUSE COMMITTEE ON URBAN AFFAIRS**

TDHCA currently regulates manufactured housing retailers that extend credit or arrange for the extension of credit under Texas Finance Code, Chapter 357.

### **Recommendations**

- Request that the State Comptroller's Office includes in its annual study a separate sample of manufactured housing in school districts, in both urban and rural areas, to assure that adequate appraisal of manufactured housing is being conducted.
- Encourage TDHCA to continue to work closely with the manufactured housing retailers as "creditors," as defined under Texas Finance Code, Section 347.002 to encourage more in-depth self-regulation.

## **INTERIM DIGEST HOUSE COMMITTEE ON URBAN AFFAIRS**

- Request that TDHCA more actively provides education information regarding the use of federal funds that are applicable to the development of manufactured housing communities, along with the purchase and repair of manufactured homes. Include information about the eligibility for a 30-year mortgage from the Federal National Mortgage Association.
- Direct TDHCA to report back to the House Committee on Urban Affairs on the results of the educational outreach programs.

### **Charge**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

### **Recommendations**

No recommendations were made.

# **INTERIM DIGEST HOUSE SELECT COMMITTEE ON THE WINDHAM SCHOOL DISTRICT**

## **HOUSE SELECT COMMITTEE ON THE WINDHAM SCHOOL DISTRICT**

### **Charge**

**Study the mission and programs of the Windham School District (WSD) to determine if the goals of the district are clear and appropriate, and if the goals to reduce recidivism and improve reintegration into society are being met.**

### **Background**

The WSD was established in 1969 to provide educational, vocational, and life skills training programs to Texas prisoners.

### **Recommendations**

- Conduct research into the establishment of a designated standing committee comprised of three Texas Board of Criminal Justice members to serve as a school board for WSD, whose duties would include, but not be limited to, employee grievances.
- Increase funding for WSD so it may expand and improve programs such as reading, GED, and cognitive interventions. The cognitive interventions program has already demonstrated a positive impact on reducing recidivism rates and assisting former offenders in gaining employment after release.
- Continue providing cognitive intervention programs as a part of the offender's individualized treatment plan, given the 30 percent reduction in recidivism of offenders who participate in this program.
- Conduct follow-up studies of Project RIO (Reintegration of Offenders) to determine:

what can be done to place offenders in higher-paying positions; and

whether joint training sessions have permitted the Texas Department of Criminal Justice and the Texas Workforce Commission to better coordinate their efforts to ensure potential employers have access to all information necessary to interview releasees for potential employment.

**INTERIM DIGEST  
HOUSE SELECT COMMITTEE ON THE WINDHAM SCHOOL  
DISTRICT**

- Conduct research to determine how to improve the placement of offenders who earn vocational training certificates into post-release employment in their field of training.
- Encourage completion of both a GED or high school diploma and a vocational training course to:
  - increase an offender's ability to obtain gainful employment upon release; and
  - reduce the risk of recidivism.
- Consider how to prioritize the raising of reading levels and the acquisition of GEDs, high school diplomas, and vocational certificates relative to the results of a study on wage gains and lower instructional hours.



---

---

***Special  
Committee  
Reports***

---

---

---

---

---

---

**ADVISORY COUNCIL ON THE DIGITAL ECONOMY**

**Charges**

With a focus on maintaining Texas' leadership in the digital economy, the Council shall consider strategies that (a) promote Texas' already existing technology-friendly climate, (b) reduce governmental impediments to the greater economic opportunities for technology companies in Texas, and (c) encourage technology companies to locate in and remain in Texas. Specifically, the Council shall consider:

- How to create broad promotional efforts that highlight Texas' pro-technology business climate.
- How tax policy encourages or discourages the growth of Texas' high tech industry.
- How state government permitting, contracting and regulatory compliance processes affect the growth of Texas' high tech industry.

To enhance Texas' position as a leader in the digital economy, the Council shall consider strategies to develop a more educated workforce. Specifically, the Council shall consider:

- Improvements in K-12 mathematics and science education programs which might help meet the workforce needs of the high tech industry.
- How to improve the technology training for primary and secondary school teachers and how technology can be more fully integrated into the curriculum of Texas' schools.
- Whether current high school technology programs meet the workforce needs of the high tech industry.
- How Texas' community colleges can be a key to addressing the workforce demands of the high tech industry.
- How to encourage the movement of technology from university laboratories into Texas' high tech companies.

The growth of the Internet brings new opportunities, such as greater information distributed more broadly, and new risks. The Council shall develop strategies to promote the broad opportunities that the Internet brings and shall consider what, if any, steps might be taken to minimize the adverse effects of the new risks. Specifically, the Council shall consider:



## **INTERIM DIGEST ADVISORY COUNCIL ON THE DIGITAL ECONOMY**

- **How to bridge the digital divide and make the opportunities of the Internet available to more Texans.**
- **What consumer protection measures, including fraud protection, privacy protection and anti-spamming protection, can provide consumers with greater confidence in their use of the Internet as a tool for information and commerce.**
- **How to utilize the Internet as a means of addressing public health concerns regarding the delivery of medical information and services.**
- **How to utilize the Internet as a tool to allow for greater public participation in the democratic process.**
- **How to utilize the Internet as a means of enhancing rural economic development.**
- **What measures can be taken to give parents greater control over their children's use of the Internet.**

### **Background**

The Advisory Council on the Digital Economy is made up of 21 individuals from the private sector and four state senators. The group collaborates with members of the Special Commission on 21st Century Colleges and Universities on issues of education delivery and technology workforce development.

The Council helps to understand how tax and regulatory policies impact technology development and how to improve privacy, consumer protections and parental involvement in the Internet and e-commerce, according to Lieutenant Governor Perry. A University of Texas study recently found that the growth of the Internet generated revenue of \$301 billion and was responsible for some 1.2 million jobs in 1998.

Between 1990 and 1997, Texas added more high-tech jobs than any other state. One and a half million Texans are linked to the Internet, up from just 160,000 in January 1995. Consumer sales through the Internet are estimated to increase from \$10 billion in 1998 to \$100 billion by 2003, and business-to-business e-commerce is projected to grow from \$43 billion to more than \$1.3 trillion in the same time period, according to the Comptroller.

### **Recommendations**

- **Appoint a state technology commissioner.**
- **Appoint a state technology council.**
- **Build and implement an education technology vision.**
- **Use incentives and strategies to increase the number of math teachers and students interested in math.**

## **INTERIM DIGEST ADVISORY COUNCIL ON THE DIGITAL ECONOMY**

- Invest in human infrastructure (increase professional development of teachers).
- Bring high tech professionals into the classroom.
- Provide scholarships in technology fields.
- Increase output of engineering graduates.
- Move state information and services on-line.

    Create an annual on-line report card of e-government progress.

- Bring technology tools to economically disadvantaged families.
- Use technology to help build stronger communities.
- Create a public/private partnership for on-line privacy.

    Enforce current consumer protection laws and report to the legislature.

- Pilot full on-line voter registration and online voting initiatives.
- Encourage the development of Regional Technology Councils (RTCs).

    Encourage universities to establish technology transfer centers.

    Foster business/risk competency in university leadership.

    Promote university involvement in RTCs.

# **INTERIM DIGEST ELECTRIC UTILITY RESTRUCTURING LEGISLATIVE OVERSIGHT COMMITTEE**

## **ELECTRIC UTILITY RESTRUCTURING LEGISLATIVE OVERSIGHT COMMITTEE**

### **Charge**

**Study the effects of S.B. 7 on the state's electricity markets, transmission system and consumers of electricity.**

### **Background**

The Electric Utility Restructuring Legislative Oversight Committee was established pursuant to Senate Bill 7, 76th Legislature, to study the effects of that bill on the state's electricity markets, transmission system, and consumers of electricity. The joint committee includes five members of the Texas Senate, appointed by the lieutenant governor, and five members of the Texas House of Representatives, appointed by the speaker. The committee was chaired by Senator Sibley and Representative Wolens.

### **Findings**

- The committee finds substantial progress has been made towards implementing the goals of S.B. 7. The committee notes most Texas market participants have met various statutory deadlines for restructuring activities, including PUC and TNRCC filings, business separation activities, and technical operations implementation.
- The committee finds sufficient coordination between power generators, utilities, ERCOT, and the PUC exists to solve potential problems, although new difficulties in transmission planning have surfaced since the emergence of wholesale market restructuring.
- The committee is encouraged by the level of activity in the renewable energy market in Texas and finds that the renewable energy mandate of S.B. 7 will likely be met before the statutory deadline.

### **Recommendations**

- Continue monitoring to ensure all market participants and implementing agencies continue to perform within the parameters intended by acts of the Legislature.
- Continue to monitor air quality, price volatility, consumer protections, and stranded costs.

**JOINT AGRICULTURE POLICY COMMITTEE**

**Charge**

**The committee is charged to develop a sound agricultural policy for Texas in the 21<sup>st</sup> century. The committee will work closely with the Texas Department of Agriculture, the Commissioner of Agriculture, the Comptroller of Public Accounts, the Texas Department of Economic Development, and other agencies and institutions of higher education.**

**Background**

Prior the 76<sup>th</sup> Legislature, Texas lacked a consistent statewide policy addressing the agriculture industry. With the adoption of H.B. 2, the Agriculture and Rural Development Act of 1999, the legislature embarked upon a comprehensive study of the condition of agriculture, including the state's current programs and its role in preserving the agricultural industry. The committee was created to generate broad policy statements regarding H.B. 2's sixteen specific areas related to agriculture, and to make recommendations for a statewide agricultural policy for Texas. The 77<sup>th</sup> Legislature will address or build upon many of these same initiatives.

**Recommendations**

In order to achieve maximum results from the implementation of H.B. 2, the Joint Agriculture Policy Committee makes the following recommendations:

- Ensure that the availability of water for agricultural use remains a high priority for both present and future generations.
- Ensure adequate transportation for agricultural products including the maintenance of an efficient farm-to-market road system and intermodal transportation at competitive rates.
- Avoid the imposition of laws or regulations that would adversely impact the health, safety, and welfare of Texans, or impede the efficiency and profitability of agricultural enterprises.
- Maintain a tax policy that promotes the agricultural industry, including production and processing.
- Facilitate access to capital through loans and grants authorized by the Texas Constitution for agricultural producers who have established or intend to establish agricultural operations in Texas.

## **INTERIM DIGEST**

### **JOINT AGRICULTURE POLICY COMMITTEE**

- Promote orderly and efficient marketing of agricultural commodities to enhance and expand sales of Texas agricultural products, both raw and processed, in local, national, and international markets.
- Continue to eradicate and/or control injurious pests and diseases that affect crops and livestock.
- Maintain a solid foundation of stable and long-term support for food and agricultural research, while improving accountability and gathering public input concerning research, promotional, and educational agriculture programs.
- Support the long-term productivity of landowners by conserving and protecting the basic resources of agriculture, including soil, water, and air, while working within federal mandates relating to natural resources.
- Promote and encourage rural economic and infrastructure development for the production of food and other agricultural products.
- Promote and protect agricultural activities conducted on farmland, if consistent with good agricultural practices and established prior to surrounding nonagricultural activities. An agricultural activity is presumed to be reasonable and not a public or private nuisance, unless it has a substantial adverse effect on public health and safety. If such agricultural activity conforms to federal, state, and local laws and regulations, it is presumed to be good agricultural practice, and not adversely affecting the public health and safety.
- Encourage the development and improvement of farmland for agricultural production consistent with the philosophy of a private property rights state.
- Support Texas agricultural production as the safest food in the world, and any regulations should be based on sound scientific evidence.
- Participate in the formulation of federal policy that affects the State of Texas.
- Improve the sustainability and effectiveness of rural fire service to protect the general public and natural resources.
- Promote efforts to increase the value of Texas agricultural products through processing, management practices, or other procedures that add consumer benefits to agricultural goods.
- Examine the feasibility of creating a Legislative Agriculture Policy Board, consisting of members of the legislature and the Texas Commissioner of Agriculture. This board may create a fifteen-member ad-hoc advisory committee. This board should:

Continue the development of agriculture policy guidelines resulting from H.B. 2.

## **INTERIM DIGEST JOINT AGRICULTURE POLICY COMMITTEE**

Review all relevant legislation, current statutes, and agency rule-making authority for compliance with agricultural policy guidelines.

Review all budget issues for compliance with agriculture policy guidelines, including establishing priorities for agriculture related research.

Coordinate with other agriculture-related boards.

**LONG-TERM CARE LEGISLATIVE OVERSIGHT COMMITTEE**

**Charge**

**Evaluate the Department of Human Services' implementation of Section 242.071, Health and Safety Code, entitled "Amelioration of Violation," and make recommendations to the department and the legislature regarding the implementation of the provision.**

**Background**

S.B. 190, 75<sup>th</sup> Session, added a section, entitled "Amelioration of Violation," to Chapter 242 of the Health and Safety Code. The amelioration provision gives the commissioner of the Department of Human Services (DHS) an option to allow nursing homes that have been assessed an administrative penalty to ameliorate their fines by directing these fines to improve direct care services to residents. Since DHS completed implementation of S.B. 190 in 1998, the House and Senate Committees on Human Services have repeatedly heard testimony from the nursing home industry on the underutilized amelioration provision. The committee formed a workgroup based on concerns related to ameliorating nursing home fines. The result was to draft policy guidance regarding the expanded use of the amelioration provision.

**Recommendations**

- Amend Chapter 242 of the Health and Safety Code to stipulate that if a request for amelioration is granted, the nursing home must agree to waive its right to any appeal related to the administrative penalty.
- Amend Chapter 242 of the Health and Safety Code to establish a "Best Practices/Quality of Life Improvement Grant Program" to be funded through administrative penalties collected by the state from nursing facilities.
- Direct DHS to adopt new reporting requirements to track the number of amelioration proposals submitted, approved, and successfully completed.

# **INTERIM DIGEST**

## **SENATE COMMITTEE ON REDISTRICTING**

## **HOUSE COMMITTEE ON REDISTRICTING**

### **SENATE COMMITTEE ON REDISTRICTING AND HOUSE COMMITTEE ON REDISTRICTING**

#### **Charge**

***Senate:*** There were no formal charges for the senate committee. When the committee was formed on January 27, 2000, Lieutenant Governor Rick Perry stated that the committee would conduct public hearings to gather information and input from communities throughout Texas as part of the process of crafting fair, compact, and contiguous state and federal political district boundaries.

***House:*** Conduct public hearings in appropriate locations to obtain public input on all issues relating to the redistricting of legislative, congressional, and State Board of Education districts following the release of the federal census in 2001.

Gather information regarding the existence and location of communities of interest to be considered in the creation of legislative, congressional and State Board of Education districts.

Monitor related federal developments, including those affecting the conduct of the 2000 federal census and the enforcement of the Voting Rights Act of 1965.

Coordinate with the Texas Legislative Council the development of software application and support services relating to the redistricting for the 77<sup>th</sup> Legislature.

#### **Background**

Following the Census 2000, the 77<sup>th</sup> Legislature will redraw congressional, legislative, State Board of Education, and state judicial districts. In order to help the legislature and interested groups and individuals prepare for the difficult challenge of redistricting and to gather information about local issues and concerns, the Texas Senate and House of Representatives each appointed a committee on redistricting. These two committees met jointly to hold public hearings throughout the state to receive input on the redistricting process.

#### **Recommendations**

No recommendations were made.



# **INTERIM DIGEST SPECIAL COMMISSION ON 21<sup>ST</sup> CENTURY COLLEGES AND UNIVERSITIES**

## **SPECIAL COMMISSION ON 21<sup>ST</sup> CENTURY COLLEGES AND UNIVERSITIES**

### **Charge**

The commission shall study issues related to institutions of higher education (IHE) and their role in contributing to the human capital needed for the State of Texas to be a leader in the new economy of the 21st Century. These issues should include, but not be limited to:

- the accessibility and affordability of higher education with special attention to the long-term impact of the changing demographics of the state;
- the future workforce needs of the state and the role of higher education in addressing those needs;
- the appropriate role and mission of IHEs in meeting state priorities;
- the effective use of technology in delivering education and training;
- the development and improvement of appropriate accountability measures and benchmarks to measure performance;
- the development of strategies to pursue and attain academic excellence;
- the role of higher education in investment in research and development and its link to economic growth;
- the use of funding mechanisms to reward performance and provide incentives to address state priorities;
- the formation of partnerships with business for training and re-training to address workforce demands; and
- the role of the Texas Higher Education Coordinating Board (THECB) in pursuing state priorities.

### **Background**

As lieutenant governor, Governor Rick Perry appointed this commission to design a response to workforce needs and demographic changes in Texas. A seamless education system, frequently called K-16 or PreK-16, is an integrated system of education from early-childhood through college, ensuring students are prepared to further their education at every level.

# INTERIM DIGEST

## SPECIAL COMMISSION ON 21<sup>ST</sup> CENTURY COLLEGES AND UNIVERSITIES

### Recommendations

- At least double the TEXAS grant program to \$200 million or more, and create a similar program for community colleges and technical students.
- Create a seamless educational system, or pipeline, that eases transition from one level to the next by:
  - requiring schools to adopt the Recommended High School Curriculum as the standard curriculum;
  - executing a statewide marketing campaign to promote opportunities resulting from higher education similar to the “Don’t mess with Texas” campaign that informs students and parents about the value of higher education, the preparation necessary for success, and the financial aid available;
  - creating a K-16 council to oversee education issues that contribute to a seamless pipeline; and
  - providing performance incentives, including financial, to elementary, secondary and IHEs to improve higher education recruitment, student retention, and student diversity.
- Create excellence in higher education by:
  - encouraging universities to select degree programs to develop into centers of excellence consistent with their missions;
  - providing incentives for IHEs to lower student-teacher ratios to improve teaching effectiveness, student retention and research; and
  - directing THECB to develop accountability measures of excellence.
- Reduce or eliminate excessive regulation and bureaucratic controls of IHEs in exchange for their meeting academic and financial performance criteria.
- Prioritize capital construction in areas with greatest demand or limited access, especially for populations that are underrepresented in IHEs.
- Support the goals and strategies of THECB’s higher education plan, *Closing the Gaps*.

