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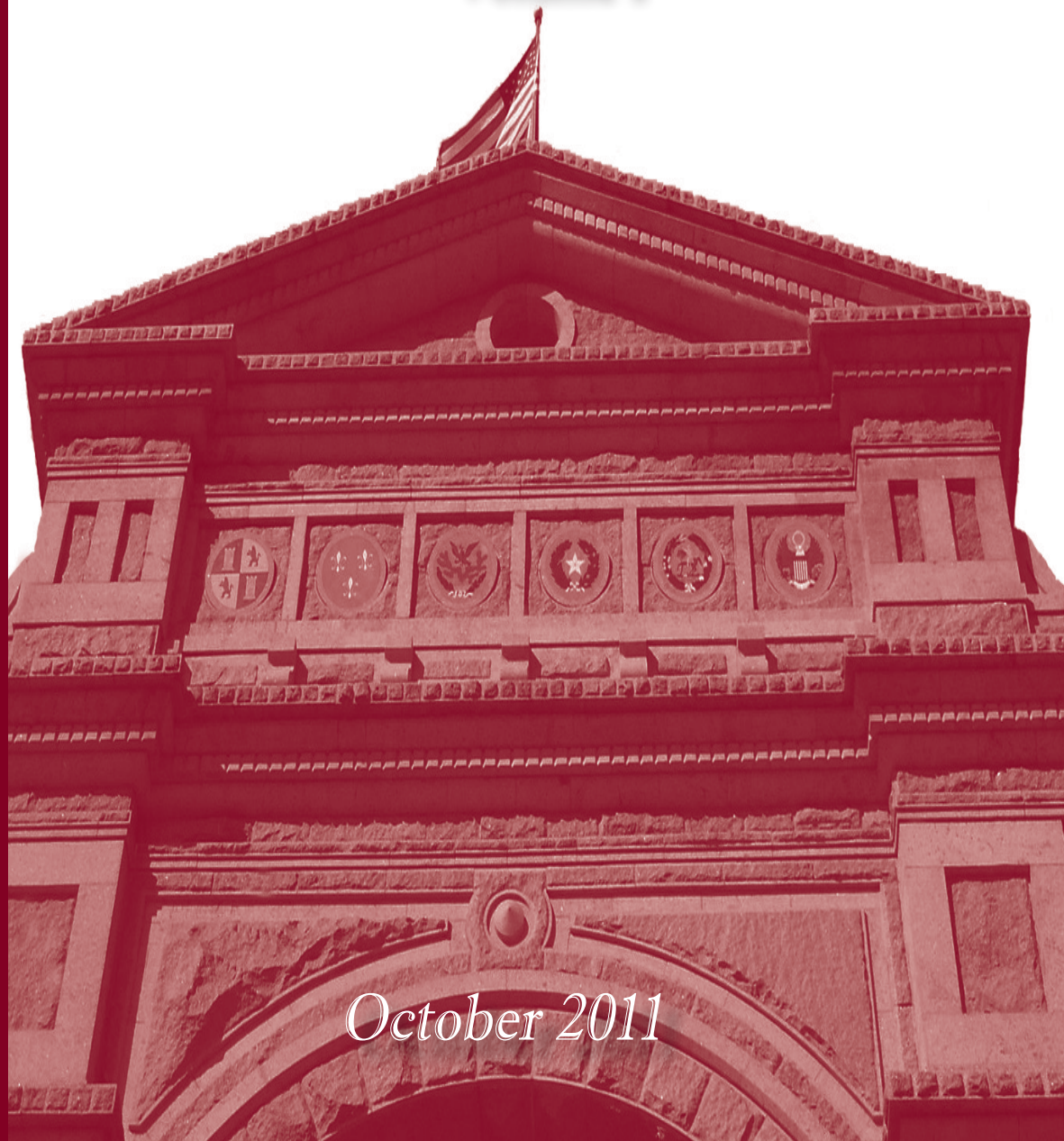
Highlights

of the 82nd

TEXAS LEGISLATURE

A Summary of Enrolled Legislation

Volume I



Sam Houston Bldg.
Suite 575
P.O. Box 12068
Austin, Texas 78711
512 • 463 • 0087
Fax: 512 • 463 • 1271
Dial 711 for Relay Calls

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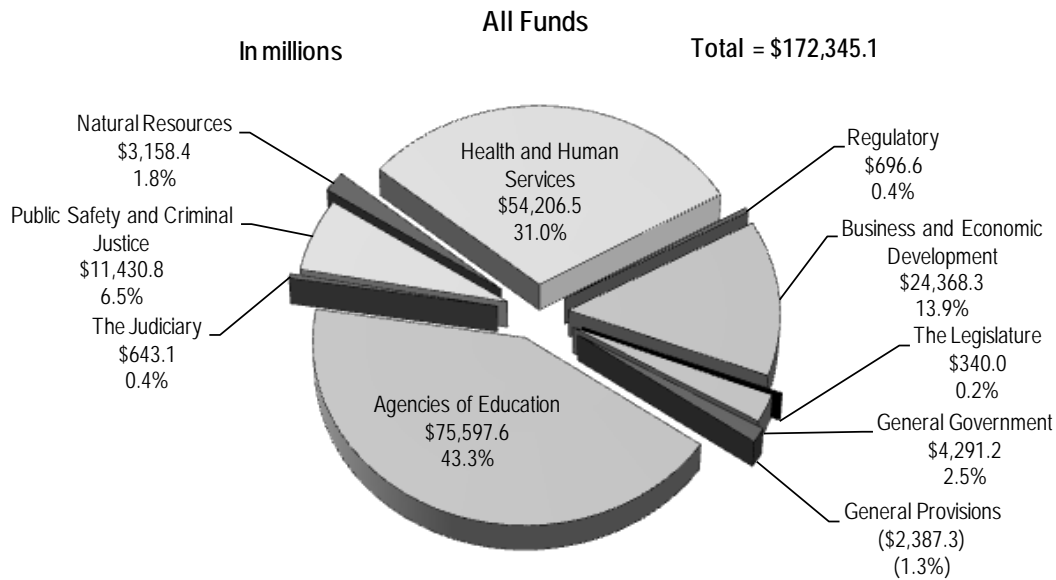
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General Appropriations Act—H.B. 1
by Representative Pitts—Senate Sponsor: Senator Ogden

Overview

The Conference Committee on H.B. 1 (committee), the General Appropriations Act, recommended \$172.3 billion in All Funds for state government operations for the 2012-2013 state fiscal biennium beginning September 1, 2011. This recommendation represents a decrease of \$15.2 billion, or 8.1 percent, compared to the 2010-2011 biennium. The committee recommended \$86.9 billion in General Revenue (GR) and GR-Dedicated funds for the 2012-2013 biennium. This recommendation represents a \$1.6 billion decrease, or 1.9 percent, from the 2010-2011 biennium.

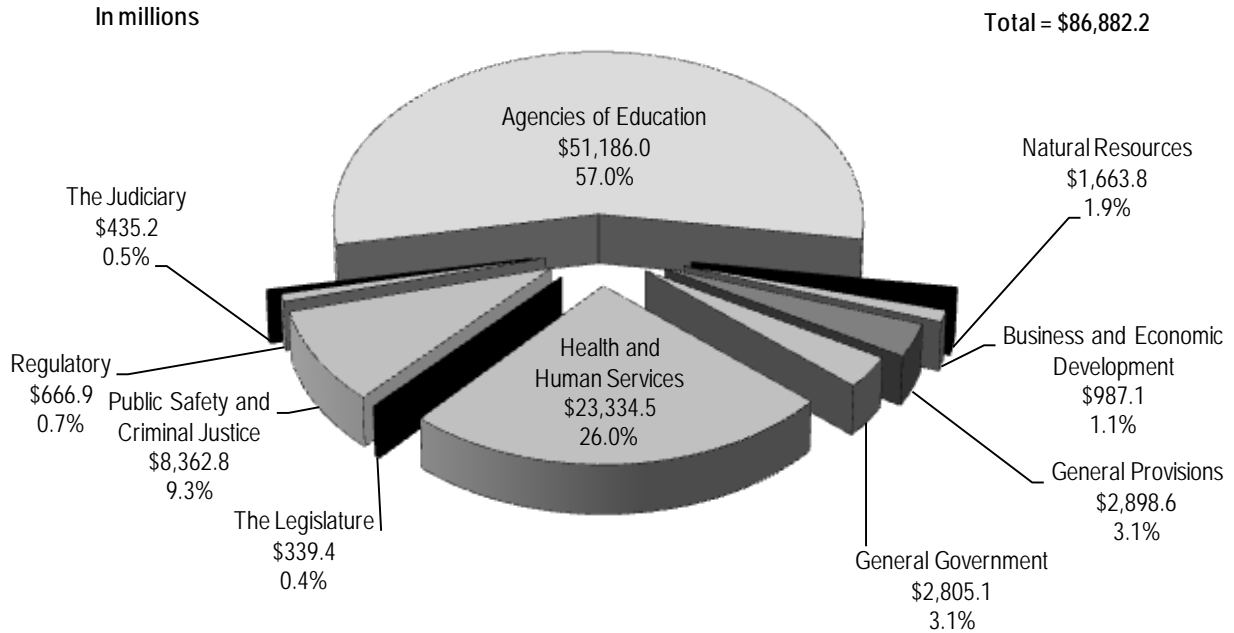
The committee recommended \$4.3 billion in All Funds and \$2.8 billion in GR and GR-Dedicated funds for Article I - General Government; \$54.2 billion in All Funds and \$23.3 billion in GR and GR-Dedicated funds for Article II - Health and Human Services; and \$75.59 billion in All Funds and \$51.18 billion in GR and GR-Dedicated funds for Article III - Agencies of Education. This includes \$53.8 billion in All Funds for public education and \$21.7 billion in All Funds for higher education. The committee recommended \$643.1 million in All Funds and \$435.2 million in GR and GR-Dedicated funds for Article IV - The Judiciary; \$11.4 billion in All Funds and \$8.36 billion in GR and GR-Dedicated funds for Article V - Public Safety and Criminal Justice; \$3.15 billion in All Funds and \$1.66 billion in GR and GR-Dedicated funds for Article VI - Natural Resources; \$24.36 billion in All Funds and \$987.1 million in GR and GR-Dedicated funds for Article VII - Business and Economic Development; \$696.6 million in All Funds and \$666.9 million in GR and GR-Dedicated funds for Article VIII - Regulatory; \$2.9 billion in reductions from the 2010-2011 budgeted funding levels for Article IX - General Provisions; and \$340 million in All Funds and \$339.4 million in GR and GR-Dedicated funds for Article X - The Legislature.



Notes: Excludes Interagency Contracts. Percentage values are calculated exclusive of the reductions made in General Provisions.

Source: *Legislative Budget Board*

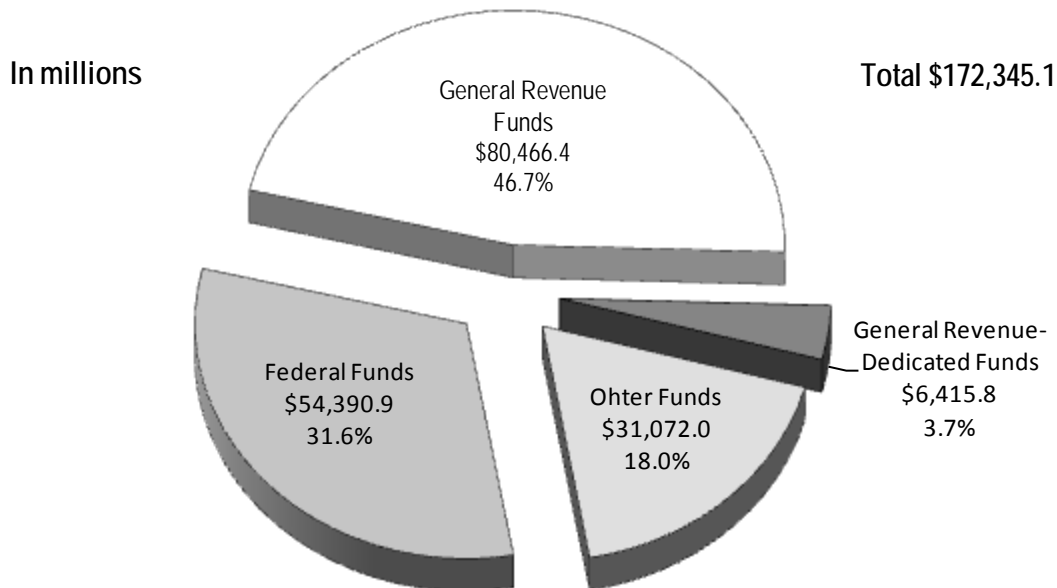
General Revenue Funds and General Revenue-Dedicated Funds



Notes: Excludes Interagency Contracts. Percentage values are calculated exclusive of the reductions made in General Provisions.

Source: Legislative Budget Board

Biennial Recommendations For 2012-2013
By Fund Source



Note: Excludes Interagency Contacts

Source: Legislative Budget Board

ALL FUNDS

(in millions)				
Function	Estimated/ Budgeted 2010-2011*	Recommended 2012-2013	Biennial Change	Percentage Change
Article I -- General Government	\$4807.9	\$4291.2	\$(516.8)	(10.7%)
Article II -- Health and Human Services	65,477.6	54,206.5	(11,271.1)	(17.2)
Article III -- Agencies of Education	76,441.5	75,597.6	(843.9)	(1.1)
Public Education	53,701.5	53,826.7	125.2	0.2
Higher Education	22,740.0	21,770.9	(969.1)	(4.3)
Article IV -- The Judiciary	673.9	643.1	(30.8)	(4.6)
Article V -- Public Safety and Criminal Justice	12,073.9	11,430.8	(643.2)	(5.3)
Article VI -- Natural Resources	3,649.0	3,158.4	(490.6)	(13.4)
Article VII -- Business and Economic Development	23,202.8	24,368.3	1,165.5	5.0
Article VIII -- Regulatory	798.7	696.6	(102.1)	(12.8)
Article IX -- General Provisions	0.0	(2,387.3)	(2,387.3)	NA
Article X -- The Legislature	372.8	340.0	(32.8)	(8.8)
Total, All Functions	187,498.1	172,345.1	(15,153.1)	(8.1%)

*Includes certain anticipated supplemental spending adjustments
 Notes: Excludes interagency contracts.
 Biennial change and percentage change are calculated on actual amounts before rounding; therefore, table and figure amounts may not sum due to rounding.
 Source: *Legislative Budget Board*

GENERAL REVENUE AND GENERAL REVENUE DEDICATED FUNDS

(in millions)				
Function	Estimated/ Budgeted 2010-2011*	Recommended 2012-2013	Biennial Change	Percentage Change
Article I -- General Government	\$3063.8	\$2805.1	\$(258.7)	(8.4%)
Article II -- Health and Human Services	22,664.3	23,334.5	670.2	3.0
Article III -- Agencies of Education	49,362.4	51,186.0	1,823.6	3.7
Public Education	33,784.0	36,827.4	3,043.4	9.0
Higher Education	15,578.4	14,358.6	(1,219.8)	(7.8)
Article IV -- The Judiciary	489.9	435.2	(54.7)	(11.2)
Article V -- Public Safety and Criminal Justice	8,695.8	8,362.8	(333.0)	(3.8)
Article VI -- Natural Resources	2,169.9	1,663.8	(506.1)	(23.3)
Article VII -- Business and Economic Development	968.1	987.1	19.0	2.0
Article VIII -- Regulatory	739.2	666.9	(72.3)	(9.8)
Article IX -- General Provisions	0.0	(2,898.6)	(2,898.6)	NA
Article X -- The Legislature	372.2	339.4	(32.7)	(8.8)
Total, All Functions	88,526.6	86,882.2	(1,643.4)	(1.9%)

*Includes certain anticipated supplemental spending adjustments
 Biennial change and percentage change are calculated on actual amounts before rounding; therefore, table and figure amounts may not sum due to rounding.
 Source: *Legislative Budget Board*

FULL-TIME EQUIVALENT POSITIONS

(in millions)					
Function	Expended 2009	Estimated 2010	Budgeted 2011	Recommended 2012	Recommended 2013
Article I -- General Government	9,118	9,346	9,687	9,234	9,233
Article II -- Health and Human Services	52,746	54,994	57,760	57,072	56,916
Article III -- Agencies of Education	83,706	85,852	87,225	85,204	85,219
Article IV -- The Judiciary	1,367	1,384	1,401	1,385	1,385
Article V -- Public Safety and Criminal Justice	52,803	53,838	54,854	53,414	53,330
Article VI -- Natural Resources	8,504	8,619	8,796	8,354	8,359
Article VII -- Business and Economic Development	17,108	17,057	17,764	17,104	16,978
Article VIII -- Regulatory	3,105	3,124	3,376	3,362	3,355
Article IX - General Provisions				112	361
Grand Total	228,457	234,213	240,862	235,240	235,135

Note: Totals may not sum due to rounding.
Source: *Legislative Budget Board*

Major Highlights

Business and Economic Development

Appropriates \$4.1 billion in All Funds for Business and Economic Development, excluding the Texas Department of Transportation (TxDOT), during the 2012–2013 biennium, a decrease of \$2.7 billion, or 40.3 percent, from the 2010–2011 biennium. Appropriates \$736.7 million in GR and GR-Dedicated funds for Business and Economic Development, excluding TxDOT, a decrease of \$173.4 million or 19.1 percent, from the 2010–2011 biennium.

Decreases appropriations by \$1.4 billion in Federal Funds, including reduced federal allocations for multiple housing programs, workforce programs, and community development block grant funds; \$1.2 billion in American Recovery and Reinvestment Act funds that are no longer anticipated to be available for the Homeless Prevention Program, Tax Credit Assistance Program, Housing Tax Credit Exchange Program, Weatherization Program, the Community Services Block Grant, and workforce related programs; and decreased funding for the Housing Trust Fund, Lottery and Bingo operations, the Skills Development Program, Employment and Community Services. Eliminates funding for the Project Reintegration of Offenders program.

Criminal Justice

Appropriates \$4.9 billion in All Funds and \$4.8 billion in GR and GR-Dedicated funds for the incarceration of adult offenders in the Texas Department of Criminal Justice (TDCJ), which includes housing, security, classification, food and necessities, health care, and treatment services.

Increases certain GR appropriations compared to the 2010–2011 biennium, including \$36.8 million for correctional security, \$15 million for contracted temporary capacity, \$16.1 million for contract prisons, private state jails, and residential parole facilities, and \$12.7 million for substance abuse treatment.

Includes reductions of \$71.5 million for Correctional Managed Health Care services, \$7.8 million for Texas Correctional Industries, \$4.8 million for correctional support and other operations, \$1.5 million for academic and vocational programs, and \$500,000 for treatment services; and increases of \$36.8 million for correctional security,

\$16.1 million for contract prisons, private state jails, and residential parole facilities, \$15 million for contracted temporary capacity, and \$12.7 million for substance abuse treatment; resulting in an overall net decrease of \$5.5 million in GR funding compared to the 2010–2011 biennium,.

Appropriates \$219.5 million in All Funds, an increase of \$108.5 million above 2010–2011 biennial spending levels of \$111.0 million, for border security to the Department of Public Safety of the State of Texas (DPS), the Trusteed Programs-Office of the Governor, and the Texas Parks and Wildlife Department.

General Provisions

Provides that for FY 2013 certain GR Fund-related items of appropriation are contingent on the certification of additional revenue above the Comptroller's Biennial Revenue Estimate, including \$500 million for the Medicaid Program, the restoration of a \$200 million reduction for Medicaid, and the restoration of a \$250 million across-the-board reduction for state programs and services other than Medicaid, debt service, and FSP.

Provides that the entire appropriation for the Foundation School Program is contingent on passage of S.B. 1, 82nd Legislature, 1st Called Session, relating to state fiscal matters and amendments to Chapter 42 of the Texas Education Code reducing state aid payments to school districts contingent on passage of other legislation by the 82nd Legislature.

Health and Human Services

Appropriates \$40.6 billion in All Funds and \$17.1 billion in GR and GR–Dedicated funds for the Medicaid program. Assumes the expansion of the Medicaid managed care model, which is anticipated to result in a net savings of \$385.7 million in GR funds, and increases in insurance premium tax revenue collections to the state. Includes certain additional provider rate reductions and cost containment initiatives totaling \$1.8 billion in GR funds. Directs the Health and Human Services Commission to pursue federal flexibility in the Medicaid benefits package, estimated to result in a savings of \$700 million in GR funds.

Appropriates \$2.3 million in All Funds and \$1.07 million in GR funds for child protective services. Maintains 2010–2011 funding levels for the relative and other designated caregiver program, foster care, adoption subsidy, and permanency care assistance caseloads.

Appropriates \$1.94 million in All Funds and \$1.48 million in GR funds to the Department of State Health Services for mental health services strategies. Maintains 2010–2011 funding levels for community mental health programs, crisis services, community mental health hospital beds, and the NorthSTAR Behavioral Health Waiver program. Includes a reduction of \$15 million in GR funds for cost savings initiatives to maintain the FY 2011 bed capacity at state mental health hospitals.

Appropriates \$326.1 million in All Funds and \$66.6 million in GR funds for the Early Childhood Intervention (ECI) program. Includes \$19.3 million in Federal Funds to serve an additional average monthly number of 1,732 children per fiscal year, for a total of 27,784 children per month per fiscal year who are anticipated to receive ECI services.

Public Education

Appropriates \$38.6 billion in All Funds and \$32.3 billion in GR and GR–Dedicated funds for the Foundation School Program (FSP). Includes a decrease in FSP funding of \$1.8 billion in All Funds and an increase of \$1.6 billion in GR funds for the 2012–2013 biennium.

APPROPRIATIONS AND FINANCE

Decreases GR Funding for public education programs outside the FSP by \$1.4 million, or 52.8 percent, compared to the 2010–2011 biennium. Includes \$608.1 million in GR funds for instructional materials.

Decreases funding for the District Awards for Teacher Excellence educator incentive pay grants by \$40 million and the Student Success Initiative by \$19 million. Eliminates funding for the Prekindergarten Early Start grant program.

Appropriates \$4 billion less in GR funds, a 5.6 percent reduction in state and local entitlements compared to current law, than the amount required to fund school finance formulas and assumes the passage of legislation that adjusts school district and charter school payments to the available appropriation levels.

Higher Education

Appropriates \$21.8 billion in All Funds and \$14.4 billion in GR and GR-Dedicated funds for higher education. Decreases formula funding by \$180 million from 2010-2011 biennium funding levels represented by a five percent reduction for general academic institutions and a 10 percent reduction for health-related institutions.

Decreases hold harmless funding up to 15 percent in GR funds, excluding tuition revenue bond debt service, at all general academic institutions.

Decreases special item funding for higher education by 25 percent at all institutions of higher education, resulting in a \$215.2 million reduction.

Decreases Higher Education Group Insurance contributions by \$99.3 million due to discounted premium contribution rates for higher education employees.

Decreases funding for the Texas Higher Education Coordinating Board (THECB) by \$332.2 million and the THECB student financial aid strategy by \$150.4 million.

Eliminates \$116.3 million in one-time hurricane recovery-related funding; \$11.5 million for the Research Development Fund; \$51.1 million for hospital and dental clinic operations; \$32.5 million for assistance to volunteer fire departments; and \$227.0 million one-time funding from ARRA.

Appropriates no funding for enrollment growth at institutions of higher education.

Natural Resources

Appropriates \$3.2 billion in All Funds and \$1.7 billion in GR and GR-Dedicated funds for Natural Resources in the 2012–2013 biennium, which is a decrease of \$490.6 million in All Funds, or 13.4 percent, from 2010–2011 biennial spending levels and a decrease of \$506.1 million in GR and GR-Dedicated funds, or 23.3 percent, from 2010–2011 biennial spending levels.

Decreases GR and GR-Dedicated funding for certain programs, including the Texas Emission Reduction Plan (TERP) by \$98.3 million, or 43 percent, and the Low Income Vehicle Repair, Replacement and Retrofit Program by \$87.5 million, or 87.5 percent.

Appropriates 50 percent of the 2010–2011 biennial funding levels for state contributions to boll weevil eradication at the Texas Department of Agriculture (TDA) and water quantity enhancement project funding at the Soil and Water Conservation Board.

Appropriates no funding for new local parks development and acquisition grants at the Texas Parks and Wildlife Department, a reduction of \$46.7 million in All Funds and \$30 million in GR and GR-Dedicated funds.

Provides that funding for certain animal disease programs and all agriculture marketing programs at the Animal Health Commission (TAHC) and TDA are contingent on fee revenue generation. Appropriates \$9.9 million, including 57.5 full-time equivalent (FTE) positions at TAHC, and \$39.7 million, including 368.3 FTE positions at TDA, based on an increased reliance on fee revenue.

Regulatory

Appropriates \$512.9 million in All Funds for regulatory agencies, excluding the Public Utility Commission (PUC), for the 2012–2013 biennium, a decrease of \$31 million, or 5.7 percent, from the 2010–2011 biennium. Appropriates \$485.2 million in GR and GR-Dedicated funds for regulatory agencies, excluding PUC, an increase of \$800,000 or 0.2 percent, from the 2010–2011 biennium.

Appropriates \$152.2 million in GR-Dedicated funds for the Low Income Discount Program at PUC, a decrease of \$67.4 million from the 2010–2011 biennial spending levels and provides a 10.5 percent energy cost discount to qualified customers between the months of May and September each year.

Decreases one-time funding from the Healthy Texas Small Employer Premium Stabilization Fund for the Healthy Texas Program.

Transportation

Appropriates \$19.8 billion in All Funds for transportation planning and design, right-of-way acquisition, construction, maintenance, and bond debt service, an increase of \$3.9 billion in All Funds, including \$3.3 billion in General Obligation (GO) bond proceeds, \$1.3 billion in State Highway Funds, \$632.5 million in Federal Funds from regular federal transportation apportionments, \$64.7 million in Federal Funds from Build America Bond interest payment subsidies, and \$191.8 million in GR funds, offset by decreases of \$938.6 million in federal economic stimulus funds, \$278 million in Texas Mobility Funds, \$396.2 million in State Highway Fund Revenue Bond Proceeds, and \$7.8 million in Other Funds from Interagency Contracts and Appropriated Receipts.

Appropriates \$4.1 billion in Proposition 12 GO bond proceeds for transportation planning and design, right-of-way acquisition, and contracts for highway improvement projects, including \$1.1 billion for the completion of highway planning and improvement projects initiated in the 2010–2011 biennium and \$3 billion to finance planning, right-of-way acquisition, and new construction contracts related to congestion relief, statewide connectivity, bridges, rehabilitation, and safety projects. Appropriates \$256.5 million in All Funds for debt service payments on Proposition 12 GO bonds for the 2012–2013 biennium.

Full-Time Equivalent Positions

Provides for 235,240 FTEs in FY 2012 and 235,135 FTEs in FY 2013. Decreases FTEs from the FY 2011 budgeted level of 240,862 for FY 2012 and FY 2013.

Vetoed

Vetoed amounts included approximately \$109.4 million in all funding sources from H.B. 1. Vetoed by the governor were appropriations representing contingency riders or contingent appropriations for bills that either did not pass or were vetoed by the governor.

Supplemental Appropriations and Adjustment Authority Regarding Appropriations—H.B. 4

by Representative Pitts et al.—Senate Sponsor: Senator Ogden

Each legislative session, state agencies project the costs of fulfilling their functions and providing important services for the following two-year budget period. This information, combined with the biennial estimate of revenues submitted to the governor and the legislature before the convening of each regular session, are key components in the construction of the General Appropriations Act. This bill:

Authorizes appropriations adjustments and grants unexpended balance authority to certain state agencies over various time periods to address revised revenue estimates and supplemental needs.

Adjusted Dormancy Period for Certain Unclaimed Personal Property—H.B. 257

by Representatives Hilderbran and Harper-Brown—Senate Sponsor: Senator Patrick

The dormancy period for most unclaimed personal property is three years, but different dormancy periods can apply depending on the nature of the property. Interested parties contend that experiences with the various return rates to property owners for bank accounts, matured certificates of deposits, and money orders indicate that locating an owner is easier if the property has been abandoned for a shorter period of time. Reducing the dormancy periods for these types of property and for utility deposits could increase the state's return rates and result in a significant one-time gain in general revenue for FY 2013. The bill addresses this matter by changing statutes relating to the periods for presumed abandonment of certain unclaimed personal property. This bill:

Provides that, except as provided by Sections 72.1015 (Unclaimed Wages), 72.1016 (Stored Value Card), 72.1017 (Utility Deposits), and 72.102 (Traveler's Check and Money Order), Property Code, personal property is presumed abandoned if the existence and location of the owner of the property is unknown to the holder of the property and, according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised for longer than three years.

Provides that, notwithstanding Section 73.102 (Checks), Property Code, a utility deposit is presumed abandoned on the latest of 18 months after the date a refund check for the utility deposit was payable to the owner of the deposit, 18 months after the date the utility last received documented communication from the owner of the utility deposit, or 18 months after the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

Provides that a money order to which Section 72.102(a) (Traveler's Check and Money Order), Property Code, applies is presumed to be abandoned on the latest of the third anniversary of the date on which the money order was issued, the third anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order, or the third anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

Provides that an account or safe deposit box is presumed abandoned under certain conditions, including, except as provided by Section 73.101(c), Property Code, the account or safe deposit box has been inactive for at least five years as determined under Subsection (b) (relating to an account and a safe deposit box becoming inactive).

Provides that, if the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Section 73.101(b)(1) (relating to an account becoming inactive), Property Code.

Requires a holder who on March 1 holds property valued at more than \$250 that is presumed abandoned under Chapter 72 (Abandonment of Personal Property), 73 (Property Held by Financial Institutions), or 75 (Texas Minerals), Property Code, or Chapter 154 (Prepaid Funeral Services), Finance Code, except as provided by Section 74.1011(b) (Notice by Property Holder Required), Property Code, on or before the following May 1 to mail to the last known address of the known owner written notice stating that the holder is holding the property and that the holder may be required to deliver the property to the comptroller of public accounts on or before July 1 if the property is not claimed.

Appropriation From Economic Stabilization Fund—H.B. 275

by Representative Pitts et al.—Senate Sponsor: Senator Ogden

The Economic Stabilization Fund (ESF) receives 75 percent of the amount by which oil and natural gas tax collections exceed 1987 collections and one-half of any unencumbered general revenue at the end of each biennium, as well as interest earned on ESF balances. The comptroller of public accounts (comptroller) has estimated that the balance of ESF will be more than \$9 billion at the end of FY 2013. The comptroller's Biennial Revenue Estimate for the 2012-2013 biennium projects a \$4.3 billion negative ending balance in GR-related funds for the 2010-2011 biennium. The Texas Constitution authorizes an appropriation from ESF by a three-fifths vote of the members present in each chamber if a budget deficit develops during a biennium after the budget has been adopted. This bill:

Provides that the amount of \$3,198,661,120 is appropriated from ESF to the comptroller for the purpose of depositing that amount to the credit of the GR fund as money available for use during the state fiscal year ending August 31, 2011, to make expenditures previously authorized by appropriations from GR for the state fiscal biennium ending August 31, 2011.

Contesting the Penalty for Late Rendition of Personal Property—H.B. 533

by Representative Villarreal—Senate Sponsor: Senator Hinojosa

Under the current procedures for contesting the penalty for a late rendition of personal property held for the production of income, the chief appraiser reviews each rendition and, on a determination that a rendition was not timely filed, imposes a penalty. The chief appraiser certifies the penalty to the taxing unit, and the taxing unit includes the penalty on the tax bill for that year. This is the first notice a taxpayer has that a penalty has been imposed. The taxpayer must then file a written request with the chief appraiser for a waiver of the penalty within 30 days of receipt of the tax bill. If the chief appraiser does not agree to waive the penalty, the taxpayer may file a protest with the appraisal review board. The result is that taxpayers often are required to pay penalties that ultimately are rescinded after an explanation is provided to the chief appraiser or the appraisal review board. This bill:

Provides that a penalty under Section 22.28 (Penalty For Delinquent Report; Penalty Collection Procedures), Tax Code, becomes final if the property owner does not protest under Section 22.30 (Waiver of Penalty), Tax Code, the imposition of the penalty before the appraisal review board; the appraisal review board determines a protest brought by the property owner under Section 22.30 by denying a waiver of the penalty and the property owner does not bring an appeal under Chapter 42 (Judicial Review) or the judgment of the district court sustaining the determination

subsequently becomes final; or a court imposes the penalty under Section 22.29 (Penalty for Fraud or Intent to Evade Tax) and the order of the court imposing the penalty subsequently becomes final.

Authorizes the chief appraiser to waive the penalty imposed by Section 22.28 if the chief appraiser determines that the person exercised reasonable diligence to comply with or has substantially complied with the requirements of Chapter 22 (Renditions and Other Reports), Tax Code.

Requires the chief appraiser, if the chief appraiser denies the penalty waiver request, to deliver by first class mail written notice of the denial to the property owner; authorizes the property owner to protest the imposition of the penalty before the appraisal review board; and requires the property owner, to initiate a protest, to file written notice of the protest with the appraisal review board before June 1 or not later than the 30th day after the date the property owner receives the notice of denial, whichever is later.

Entitles the property owner to appeal under Chapter 42, Tax Code, an order of the appraisal review board determining a protest brought under Section 22.30.

Authorizes the chief appraiser and a protesting property owner, notwithstanding any other provision of Section 22.30, to enter into a settlement agreement on the matter being protested, if both parties agree that there was a mistake.

Texas Water Development Board Financial Assistance for Certain Projects—H.B. 1732

by Representative Ritter—Senate Sponsor: Senator Hinojosa

The Texas Water Development Board (TWDB) has both self-supporting debt and debt that is not self-supporting among its various programs. A self-supporting program is a program that has loan repayment that covers the cost of debt service related to the bond proceeds used to fund the program. Conversely, a program that is not self-supporting does not have the level of loan repayment to cover the cost of debt service related to the bond proceeds used to fund the program and requires general revenue funds to cover the cost of debt service. TWDB's constitutional authority to issue debt is presumed to be self-supporting, and TWDB does not issue debt that is not self-supporting unless the legislature appropriates general revenue expressly for this purpose. This bill:

Provides that water financial assistance bonds that have been authorized but have not been issued are not considered to be state debt payable from the general revenue fund for purposes of Section 49-j (Limit on State Debt Payable from General Revenue Fund), Article III (Legislative Department), Texas Constitution, until the legislature makes an appropriation from the general revenue fund to TWDB to pay the debt service on the bonds.

Requires the executive administrator of TWDB, in requesting approval for the issuance of bonds, to certify to the Bond Review Board (BRB) whether the bonds are reasonably expected to be paid from the general revenues of the state or revenue sources other than the general revenues of the state. Requires BRB to verify whether debt service on bonds to be issued by TWDB is state debt payable from the general revenues of the state, in accordance with the findings made by TWDB in the resolution authorizing the issuance of the bonds and the certification provided by the executive administrator. Requires that bonds issued that are designed to be paid from the general revenues of the state cease to be considered bonds payable from those revenues under certain conditions.

Prohibits TWDB from approving an application if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project. Requires TWDB to consider certain factors when acting on an application for financial assistance.

Authorizes TWDB to use the state participation account of the development fund to encourage optimum regional development of projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of reservoirs and storm water retention basins for water supply, flood protection, and

groundwater recharge; facilities for the transmission and treatment of water; and treatment works as defined by Section 17.001 (Definitions), Water Code.

Tax Exemption for Special-Purpose Agricultural Structures—H.B. 2810

by Representative Sid Miller—Senate Sponsor: Senator Estes

Some dairies in Texas have shifted from the traditional dairy farm to more efficient systems that use complex structures in place of the traditional barns and milking parlors. These free-stall dairy barns can incorporate various features such as a maternity barn, where dairy calves are born and cared for. The increasing use of nontraditional methods and systems has called into question whether the tax exemption for other, more traditional, items of agriculture is applicable to some of the new structures and features that are transforming the dairy industry. This bill:

Reenacts Section 151.316(a), Tax Code, as amended by Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st Legislature, Regular Session, 2009.

Provides that certain items are exempted from the taxes imposed by Chapter 151 (Limited Sales, Excise, and Use Tax), including tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used or employed exclusively for the production of milk, and is a free-stall dairy barn, or a dairy structure used solely for maternity purposes.

Composition and Appointment of UTIMCO Board of Directors—H.B. 2825

by Representative Otto—Senate Sponsor: Senator Williams

The University of Texas Investment Management Company (UTIMCO) manages the investment assets under the fiduciary care of the board of regents of The University of Texas System (UT System), including the permanent university fund that contributes to the support of UT System and The Texas A&M University System (TAMU System). UTIMCO is governed by a nine-member board of directors consisting of the chancellor of the UT System, three UT System regents, and five other members appointed by the board of regents of the UT System. That board of regents is currently required to select at least one of the members from a list of candidates provided by the board of regents of the TAMU System. This bill:

Requires the board of directors of the nonprofit corporation contracted to invest funds under the control and management of the board of regents of the UT System (board) to have nine members, determined as follows: six members appointed by the board, three of whom are required to be members of the board and three of whom are required to have a substantial background and expertise in investments; the chancellor of the UT System; and two members appointed by the board of regents of the TAMU System, at least one of whom is required to have a substantial background and expertise in investments.

Provides that each appointed member of the board is subject to removal and replacement by and at the pleasure of the appointing entity.

Payment of Miscellaneous Claims and Judgments Against the State—H.B. 3647

by Representative Turner—Senate Sponsor: Senator Ogden

The state has a number of outstanding claims and judgments against it at the end of each biennium, such as warrants voided by the statute of limitations, outstanding invoices to private vendors, unpaid charges for Medicaid recipients, or court judgment settlements. Additional appropriations are required to be made in order to honor the state's obligations under the law. This bill:

Appropriates certain sums of money out of various state accounts for the payment of miscellaneous claims and judgments against the state.

Requires that before any claim or judgment may be paid from money appropriated by this Act, the claim or judgment be verified and substantiated by the administrator of the special fund or account against which the claim or judgment is to be charged and be approved by the attorney general and the comptroller. Prohibits any claim or judgment that has not been verified and substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2012, from being paid from money appropriated by this Act.

Provides that, subject to the conditions and restrictions in this Act and provisions stated in the judgments, the comptroller is authorized and directed to issue one or more warrants on the state treasury in favor of each of the individuals, firms, or corporations named or claim numbers identified in an amount not to exceed the amount set opposite their respective names or claim numbers and is required to mail or deliver to each of the individuals, firms, or corporations associated with each claim one or more warrants in payment of all claims included in this Act.

Distributions of Revenue From the Permanent School Fund—H.J.R. 109

by Representative Orr et al.—Senate Sponsor: Senator Ogden

Recent legislation allows the General Land Office (GLO) to transfer money under its control in the permanent school fund directly to the available school fund. A subsequent attorney general's opinion, however, ruled that the provision allowing the transfer was likely unconstitutional. A separate issue, observers note, is that there are different terms used to describe the permanent school fund throughout the Texas Constitution. This bill:

Provides that the total amount distributed from the permanent school fund to the available school fund in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of H.J.R. 109, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before the state fiscal biennium, in accordance with the rate adopted by a vote of two-thirds of the total membership of the State Board of Education (SBOE), taken before the regular session of the legislature convenes, or the legislature by general law and appropriation, if SBOE does not adopt a rate as provided by a vote of two-thirds of the total membership of SBOE taken before the regular session of the legislature convenes.

Authorizes GLO or an entity other than SBOE that has responsibility for the management of permanent school fund land or other properties to, in its sole discretion, notwithstanding any other provision of this constitution or of a statute, distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed \$300 million each year.

Adds a temporary provision to the Texas Constitution to increase the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund. Provides that the temporary provision expires December 1, 2015.

Composition and Use of Money in the Rural Water Assistance Fund—S.B. 360

by Senator Fraser—House Sponsor: Representative Creighton

S.B. 2, 77th Legislature, Regular Session, 2001, created the rural water assistance fund (RWA fund) as a means to set aside funds at the Texas Water Development Board (TWDB) for water and wastewater projects in rural communities. Although rural borrowers may obtain financing through other funds administered by TWDB, it is

confusing for some of these entities to determine which program best suits their needs. In addition, small rural systems are often unable to compete with big cities for funding. This bill:

Authorizes the RWA fund to be used to provide low-interest loans to rural political subdivisions for water or water-related projects and for certain water quality enhancement projects, including the construction of infrastructure facilities for wholesale or retail water or sewer service, desalination projects, the purchase or lease of water well fields, property necessary for water well fields, and water projects included in the state water plan or a regional water plan; development of groundwater sources and acquisition of water rights, including groundwater and surface water rights; the acquisition of retail public utilities; the acquisition of water supply or sewer service facilities or systems owned by municipalities or other political subdivisions; construction, acquisition, or improvement of water and wastewater projects to provide service to an economically distressed area; planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a project; and obtaining other political subdivisions or financing the consolidation or regionalizing of neighboring political subdivisions, or both.

Authorizes the RWA fund to be used to provide zero interest loans, negative interest loans, loan forgiveness, or grants.

Authorizes TWDB to use money in the RWA fund to contract for outreach, financial assistance, and technical assistance to assist rural political subdivisions in obtaining and using financing from the RWA fund.

Authorizes a rural political subdivision to enter into an agreement with a federal agency, a state agency, or another rural political subdivision to submit a joint application for financial assistance.

Authorizes TWDB to coordinate its review of an application with a federal agency to avoid duplication of efforts and cost.

Authorizes TWDB, in addition to any other method of providing financial assistance authorized, to make financial assistance available to an applicant that is a nonprofit water supply or sewer service corporation by entering into a loan agreement with the applicant.

Fiscal Impact Study of Certain Ad Valorem Tax Exemptions—S.B. 540

by Senator Van de Putte—House Sponsor: Representative Naomi Gonzales

Current law allows disabled veterans to receive an exemption from a portion of the appraised value of their property according to the disability rating schedule set forth in Section 11.22 (Disabled Veterans), Tax Code. The four exemption levels in the Tax Code include an exemption of up to \$5,000 of the assessed value for veterans disabled at least 10 percent but less than 30 percent; an exemption of up to \$7,500 of the assessed value for veterans disabled at least 30 percent but less than 50 percent; an exemption of up to \$10,000 of the assessed value for veterans disabled at least 50 percent but less than 70 percent; and an exemption of up to \$12,000 of the assessed value for veterans disabled 70 percent and over. This exemption schedule was established by the 66th Legislature, Regular Session, 1979. The exemption amounts currently in place were revised by the 77th Legislature, Regular Session, 2001. The intent of the 66th Legislature was to ensure that disabled Texas veterans would be able to afford home ownership by reducing the appraised value of a disabled veteran's homestead residence. While the average market value of property in Texas has increased, the exemption dollar amount has remained unchanged, resulting in a dramatic loss of value for the four levels of exemption from taxation of a portion of the assessed value of a property the veteran owns. In order to maintain the original intent of the 66th Legislature, legislators must have the information and data at their disposal to consider the adjustment of the exemption amount to reflect the change in the average value of property in Texas. This bill:

Requires the comptroller to study the fiscal impact on this state and local governments that would have been created during the preceding 10 years by the adjustment of the maximum amount of the exemption to which a person is entitled under Section 11.22, Tax Code, to reflect the percentage change from the preceding tax year in the average market value of residence homesteads in the appraisal district in which the property subject to the exemption is located.

Requires the comptroller, not later than December 1, 2012, to report the results of the study conducted to the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over matters affecting tax revenue and veterans affairs.

Requires a state agency or local government, at the comptroller's request, to provide information and assistance in conducting the study.

Customs Brokers—S.B. 776

by Senator Zaffirini—House Sponsors: Representative Guillen et al.

The United States Constitution prohibits state governments from taxing goods exported to foreign nations. One of the ways Texas may comply with this constitutional constraint is by rebating state sales taxes on purchases made by foreign shoppers who prove the purchase is bound for export through documentation issued by a licensed customs broker. This bill:

Authorizes the comptroller to provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) (relating to certain documentation shown as proof of export) in those instances when the password-protected website is unavailable due to technical or communication problems. Authorizes a customs broker or authorized employee to use the alternate method only if the comptroller provides prior authorization for each use.

Authorizes a customs broker licensed by the comptroller or an authorized employee of the customs broker to issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States only if the customs broker or authorized employee verifies that the purchaser is transporting the property to a destination outside of the territorial limits of the United States by requiring that the documentation examined have a unique identification number for that purchaser and requiring the purchaser and the broker or an authorized employee to sign in the presence of each other a form prepared or approved by the comptroller containing certain information.

Authorizes a customs broker licensed by the comptroller or an authorized employee of the customs broker to issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States only if the customs broker or authorized employee verifies that the purchaser is transporting the property to a destination outside of the territorial limits of the United States by requiring the purchaser and the broker or an authorized employee, when using a power of attorney form, to attest, as a part of the form and in the presence of each other that the purchaser has provided the information and documentation required and that the purchaser is on notice that tangible personal property not exported is subject to taxation and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property.

Requires the comptroller to limit to six the number of receipts for which a single proof of export documentation may be issued. Requires the comptroller to charge \$2.10, rather than \$1.60, for each stamp and use the remaining 50 cents only for enforcement of the laws relating to customs brokers.

Consolidation of Funds and Accounts for General Governmental Purposes—S.B. 1588

by Senator Ogden—House Sponsor: Representative Pitts

Historically, dedications of revenue for particular purposes have limited the legislature's flexibility in appropriating funds based on budgetary need and in using fund balances for other governmental purposes. Almost 20 years ago, the legislature enacted provisions relating to the consolidation of funds in existence before the end of the fiscal biennium. These provisions provided for the abolition of dedications in existence prior to the end of the next fiscal biennium, unless otherwise expressly exempted. This bill:

Creates, re-creates, and abolishes certain state funds and accounts; dedicates and rededicates revenue; and exempts unappropriated money from use for general governmental purposes.

Constitutional Amendment Providing for Appraisal of Certain Open-Space Land—S.J.R. 16

by Senator Estes—House Sponsor: Representative Ritter

Currently, landowners can qualify for several property-tax valuation options based on land management practices. One of the more frequently used options is the open-space valuation option, commonly referred to as the agricultural exemption. Among the many activities that fit the definition of agricultural use for the purpose of the open-space valuation is wildlife management. Adding water stewardship purposes, similar to the way in which wildlife management was added in the past, gives landowners another tool to better manage their property and incentivize doing so in a way that is not cost prohibitive. It also incentivizes land owners to invest in projects to improve water quality and quantity for the state. This bill:

Requires the legislature, to promote the preservation of open-space land, to provide by general law for taxation of open-space land devoted to farm, ranch, wildlife management, or water stewardship purposes on the basis of its productive capacity and authorizes the legislature to provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity.

Bureau for Economic Development of the Border Region—H.B. 397 [Vetoed]

by Representative Veronica Gonzales et al.—Senate Sponsor: Senator Uresti

Interested parties contend that variables such as border security, commerce and trade, and international relations can have a profound impact on the economic strength of the areas along the Texas-Mexico border. This bill:

Defines "border region" and "bureau."

Provides that the Bureau for Economic Development of the Border Region (bureau) is a collaboration of participating entities administered by an institution of higher education as provided, and requires the bureau to work in collaboration with public and private entities solely in an advisory capacity on relevant research focused on the region to maximize the economic potential of the region.

Requires, with an exception, that the administration of the bureau alternate on September 1 of each odd-numbered year among certain institutions of higher education and provides the required order.

Sets forth provisions related to the composition of the bureau's steering committee (steering committee) and certain requirements and considerations regarding members; member terms; committee meetings; committee officers; committee funding; facilities and other assistance; and duration.

Requires the institution of higher education that administers the bureau to provide educational expertise to the bureau.

Allows an institution of higher education to decline to administer the bureau for a biennium if the institution notifies each of the members of the committee not later than the 30th day before the date the institution is scheduled to begin administering the bureau.

Provides that, if an institution declines to administer the bureau, the next institution of higher education scheduled to administer the bureau administers the bureau during the biennium, and the member affiliated with the institution of higher education that has declined to administer the bureau must continue to participate in the steering committee but does not serve as presiding officer for the biennium, and the institutions of higher education continue to alternate the administration of the bureau as required for subsequent bienniums.

Requires the bureau to facilitate research in fields of study affecting the economy in the region; make recommendations to the legislature regarding the provision of economic and financial education to persons living in the region; draft and submit reports to advise the legislature about economic development opportunities in the region; provide evaluation of specific proposals for use of economic development funds in the region, including tax abatement agreements; consult with the Texas Economic Development and Tourism Office within the office of the governor on issues related to the region; study and report on opportunities to improve trade across the international border; and make recommendations to the legislature about the establishment of infrastructure projects to assist multiple counties in the region.

Requires that two-thirds of the members of the steering committee present at a meeting at which a quorum is present approve the recommendation or evaluation as mentioned above before a recommendation or evaluation is made.

Prohibits the legislature from making an appropriation for the duties or functions of the bureau.

Sets forth requirements regarding the appointment of the initial members of the steering committee by the appropriate persons or administration and the associated dates on which that the appointed members' terms expire.

Funding of Port Security, Facility Projects, and Port Studies—H.B. 699

by Representative Deshotel—Senate Sponsor: Senator Lucio

The Senate Committee on International Relations and Trade Interim Report to the 82nd Legislature discusses the economic importance of ports in Texas. Chapter 55 (Funding of Port Security, Projects, and Studies) of the Texas Transportation Code provides for the funding of port security, facility projects, and port studies by the Texas Department of Transportation (TxDOT) from the port access account fund (fund) with certain restrictions and requirements. Additionally, the statute provides for the membership of the Port Authority Advisory Committee (advisory committee), the committee's duties, and certain other related requirements. As currently written, Chapter 55 of the Texas Transportation Code utilizes the term "port" throughout the chapter, which can broadly refer to ports for all modes of transportation, causing concern regarding the clarity of the statute. This bill:

Clarifies that "port security, transportation, or facility project" means a project that is necessary or convenient for the proper operation of a maritime port, rather than a port, and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade.

Changes references to "port" within Chapter 55, Texas Transportation Code, to clarify that "maritime port" is intended and makes conforming changes.

Authorizes the Texas Transportation Commission (TTC) to establish by rule matching fund requirements for receiving money from the fund.

Deletes the existing requirement that TxDOT not fund a port security, transportation, or facility project unless an amount at least equal to the amount provided by TxDOT is invested in the project by a port authority or navigation district.

Deletes the requirement that the advisory committee maintain trade data information that will assist ports in this state and international trade.

Requires the advisory committee to prepare a report every two years, rather than annually, on Texas maritime ports, with a list of projects that have been recommended by the committee and certain related information.

Requires the advisory committee to update the report on Texas maritime ports and to submit the report not later than December 1 of each even-numbered year to TTC for distribution to the governor, the lieutenant governor, and the speaker of the house of representatives.

Requires the advisory committee to update the port capital program and to submit the capital program to the governor, the lieutenant governor, the speaker of the house of representatives, and TTC not later than December 1 of each even-numbered year, rather than annually not later than February 1.

Border Trade Advisory Committee—S.B. 816

by Senator Lucio—House Sponsor: Representative Lucio III

The Border Trade Advisory Committee (BTAC) was established to develop strategies and make recommendations to the Texas Transportation Commission (TTC) and governor for addressing the highest priority border trade transportation challenges. The BTAC consists of persons representing certain metropolitan planning organizations, the state's ports of entry, and transportation or trade research institutions. Recent developments that impact trade around the world, including the expansion of the Panama Canal, have led to increased recognition of the importance of multi-modal forms of transportation, particularly water-borne freight, to transportation planning. This bill:

BORDER AFFAIRS AND IMMIGRATION

Requires the TTC to appoint members of the BTAC, which to the extent practicable must be composed of certain persons, including the port director of the Port of Brownsville or the port director's designee.

Specifies that, in determining actions to be taken on recommendations made by BTAC for addressing the highest priority border trade transportation challenges, TTC consider, in addition to other factors, potential sources of infrastructure funding at border ports, including such border ports as maritime ports.

Carrying Weapons in a Watercraft—H.B. 25

by Representative Guillen et al.—Senate Sponsor: Senator Patrick

It is currently legal under some circumstances to carry a weapon in a person's home, to and from a person's vehicle, and in the vehicle. This bill:

Authorizes the carrying of a weapon in a watercraft under certain circumstances as a means of personal protection.

Notification of the Release of Certain Inmates—H.B. 200

by Representative Parker—Senate Sponsor: Senator Whitmire

The Texas Department of Criminal Justice (TDCJ) is required to give notice on the release or parole of an inmate to the United States Social Security Administration and certain sheriffs, attorneys, judges, and police chiefs. This bill:

Allows TDCJ to provide required notice of inmate release or parole by e-mail or other electronic communication.

Identification Procedures in Criminal Cases—H.B. 215

by Representative Gallego et al.—Senate Sponsor: Senator Ellis

Scientific research regarding eyewitness memory has shown that eyewitness identification may often be unreliable and mistaken eyewitness identification has been the cause of wrongful convictions in Texas and the United States. This bill:

Requires the Bill Blackwood Law Enforcement Management Institute of Texas at Sam Houston State University to develop a model policy and associated training materials regarding the administration of photograph and live lineup identification procedures.

Requires law enforcement agencies that conduct photograph or live lineup identification procedures to adopt a detailed written policy regarding the administration of photograph and live lineup identification procedures.

Requires law enforcement agencies to review the eyewitness identification policies and modify as appropriate not later than September 1 of each even-numbered year.

Unlawful Transport of a Person—H.B. 260

by Representatives Hilderbran and Charlie Howard—Senate Sponsor: Senator Patrick

Out of fear of the consequences, victims of smugglers are often unlikely to report smugglers to law enforcement. As a result, the people who are smuggled into the United States illegally often become victims of other crimes, including theft, forced labor, assault, rape, forced prostitution, and murder.

Most cases of smuggling are prosecuted by federal attorneys who can secure longer sentences for the crime. This bill:

Enhances state smuggling laws by establishing that illegally transporting an individual into the United States by using a motor vehicle, aircraft, or watercraft is a third degree felony, rather than a state jail offense, if the offender commits the offense for pecuniary benefit or creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

Authorizes the offender, if he or she also commits an offense under a different section of the Penal Code, to be prosecuted under either section or under both sections of the Penal Code.

Activity of Maintaining a Common Nuisance—H.B. 289

by Representative Jim Jackson et al.—Senate Sponsor: Senator Nelson

The Office of the Attorney General (OAG), a city, county, or district attorney, or an individual may sue to prohibit the operation of a common nuisance. A common nuisance is defined as a place where a specific list of criminal activities habitually takes place. This bill:

Expands the definition of common nuisance to include criminal activities that place children at risk of harm.

Punishment for Employment Harmful to Children—H.B. 290

by Representative Jim Jackson et al.—Senate Sponsor: Senator Nelson

It is illegal to employ a minor at a sexually oriented business. This bill:

Provides that the offense of employment harmful to children is state jail felony, rather than a Class A misdemeanor, if the defendant has previously been convicted one time for the same offense.

Provides that the offense of employment harmful to children is a third degree felony if the defendant has previously been convicted two or more times for the same offense.

Expunction of Arrest Records and Files—H.B. 351

by Representative Veasey—Senate Sponsor: Senator West

Since 1989, 267 exonerations have taken place in the United States, including 42 in the state of Texas. Although exonerated, the criminal records connected to the arrest, indictment, and conviction for the offense still exist. While an exoneration and pardon overturns the conviction and releases the subject from incarceration, an expunction is still needed to remove records of the offense from various national, state, and local criminal history records repositories.

The expunction process that must take place through the court system must be handled by a private attorney or a legal representative working on behalf of the exoneree and can involve significant court costs and attorney fees.

In 2007, the Texas Supreme Court ruled in *State v. Beam* that even a Class C misdemeanor that has been dismissed through completion of deferred adjudication cannot be expunged until the statute of limitations for the offense has expired. This bill:

Entitles a person who has been placed under custodial or noncustodial arrest for commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged if the person is acquitted by the trial court or convicted and subsequently pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense.

Requires the trial court presiding over a case in which a defendant is convicted and subsequently granted relief or pardoned on the basis of actual innocence to enter an order of expunction for a person entitled to expunction within 30 days after the date the court receives notice of the pardon or other grant of relief.

Requires the clerk of the court, when the order of expunction is final, to send a certified copy of the order to the Crime Records Service of the Department of Public Safety of the State of Texas (DPS) and to each official or agency or other governmental entity of this state or any political subdivision of this state named in the order.

Prohibiting Deferred Adjudication for Certain Defendants—H.B. 371

by Representative Hochberg et al.—Senate Sponsor: Senator Hegar

According to the Code of Criminal Procedures, a judge may grant deferred adjudication unless the defendant is charged with driving while intoxicated, driving while intoxicated with child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, or intoxicated manslaughter.

A judge may also grant deferred adjudication unless the defendant is charged with indecency with a child, sexual assault, continuous sexual abuse of a young child or children, or aggravated sexual assault. This bill:

Prohibits a judge from granting deferred adjudication to a defendant who is charged with murder, unless the judge determines that the defendant did not cause the death of the deceased, did not intend to kill the deceased or another, and did not anticipate that a human life would be taken.

Compensation for Wrongful Imprisonment and Group Health Benefits—H.B. 417

by Representatives Anchia and Jim Jackson—Senate Sponsor: Senator Ellis

As the result of legislation increasing the lump-sum compensation amount for a wrongfully convicted person, there have been reports of attorneys who charge excessive fees or fees in violation of the Texas Bar Association's code of professional conduct. The request for wrongful imprisonment compensation form does not require the assistance of counsel and many nonprofit organizations provide assistance in filing claims with the state at no cost. This bill:

Provides that a person is entitled to compensation if the person has been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the person is actually innocent of the crime for which the person was sentenced or has been granted relief in accordance with a writ of habeas corpus and the state district court in which the charge against the person was pending has entered an order dismissing the charge and the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or the affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced.

Provides that a person who is entitled to compensation is also eligible to obtain group health benefit plan coverage through TDCJ as if the person were an employee of TDCJ, but does not entitle the person's spouse or other dependent family members to group health benefit coverage.

Provides that a person entitled to compensation and group health benefit plan coverage may obtain coverage for a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully imprisoned.

Requires a person who elects to obtain group health benefit coverage to pay a monthly contribution equal to the total amount of the monthly contributions for that coverage for an employee of TDCJ.

Provides that annuity payments may be reduced by an amount necessary to make the payments required for the group health benefit plan and requires that amount to be transferred to an appropriate account as provided by the comptroller.

Requires TDCJ to provide to each wrongfully imprisoned person information, both orally and in writing, that includes guidance on how to obtain compensation and a list of contact information for nonprofit advocacy groups that assist wrongfully imprisoned persons in filing claims for compensation.

Requires TDCJ to provide the information at the time of the release of the wrongfully imprisoned person from a penal institution or as soon as practicable after TDCJ has reason to believe that the person is entitled to compensation.

Requires a person seeking compensation to file an application with the comptroller for compensation not later than the third anniversary of the date the person's application for a writ of habeas corpus was granted or an order of dismissal was signed.

Requires the claimant applying for compensation to file with the comptroller's judiciary section a verified copy of the pardon, court order, motion to dismiss, and affidavit, as applicable, justifying the application for compensation.

Requires the comptroller, in determining the eligibility of a claimant, to consider only the verified copies of documents filed and to deny the claim if the filed documents do not clearly indicate on their face that the person is entitled to compensation.

Requires the comptroller, if the comptroller denies the claim, to state the reason for the denial and requires the claimant, no later than the 30th, rather than the 10th, day after the date of denial is received, to submit an application to cure any problem identified.

Requires the claimant, when applying for group health benefit plan coverage through TDCJ, to file with TDCJ an application for coverage and a statement by the comptroller that the comptroller has determined the claimant to be eligible for compensation.

Provides that a person, including an attorney, may not charge or collect a fee for preparing, filing, or curing a claimant's application unless the fee is based on a reasonable hourly rate.

Provides that an attorney may enter into a plea agreement with a claimant for services related to an application only after the attorney has disclosed in writing to the claimant the hourly rate that will be charged for the services.

Provides that an attorney may not collect a fee for preparing, filing, or curing a claimant's application before final determination is made by the comptroller that the claimant is eligible or ineligible for compensation.

Requires a person seeking payment for preparing, filing, or curing an application, not later than the 14th day after the application is filed, to file a report with the comptroller's judiciary section that includes the total dollar amount sought for fees, the number of hours the person worked preparing the application, and the name of the applicant.

Provides that the fee report is public information.

Amends the Government Code to conform with the changes made by this bill in the Civil Practices and Remedies Code.

Criminal Penalties for the Unauthorized Harvesting of Timber—H.B. 613

by Representatives Hopson and Farrar—Senate Sponsor: Senator Nichols

The Natural Resources Code does not currently provide criminal penalties for unauthorized timber harvests. Current law also limits the damages that a court may award to the owner to three times the market price of the timber, without providing compensation for actual damages to real property or for other expenses incurred. Clarity is needed to

provide that the unauthorized harvest of timber is a distinct offense and to extend liability for such an offense to actual damages and other expenses incurred as a result of an unauthorized harvest. This bill:

Provides that a person who knowingly harvests timber, or causes another person to harvest timber, without authorization is jointly and severally liable to the owner for the value of the timber and any expenses incurred by the owner as a direct result of the unauthorized harvesting.

Provides that a person commits a criminal offense if that person knowingly harvests timber, or causes another person to harvest the timber, without the permission of the owner.

Defines penalties for unauthorized harvesting of timber based on the value of the harvested timber.

Funeral Service Disruption—H.B. 718

by Representative Fletcher et al.—Senate Sponsor: Senator Birdwell

Current law prohibits an individual from picketing at a funeral service one hour before the service begins and one hour after the service is completed. Many funeral services do not begin punctually, especially services for military personnel. This bill:

Prohibits an individual from picketing at a funeral service during the period beginning three hours, rather than one hour, before the service begins and ending three hours, rather than one hour, after the service is completed.

Proceedings for Charges of Cruel Treatment of Animals—H.B. 963

by Representative Hartnett—Senate Sponsor: Senator Rodriguez

An owner who has been divested of ownership of animals for cruel treatment is able to appeal from a justice court, a municipal court, or a municipal court of record to a county court or county court at law. The required steps in the appeals process and the amount and type of the appeal bond does not always cover the costs of caring for the animals and animals are often held for extended periods of time during the appeals process. This bill:

Requires the court to divest the owner of ownership of the animal and to order a public sale of the animal by auction, or order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization.

Requires the court to order the owner to pay all court costs.

Requires the court to determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

Authorizes a peace officer, if the officer is unable to sell the animal at auction, to cause the animal to be humanely destroyed or to give the animal to a municipal or county animal shelter or a nonprofit animal welfare organization.

Authorizes an owner divested of ownership of an animal to appeal the order with a cash bond or surety bond to a county court or county court at law not later than the 10th calendar day after the date the order is issued.

Issuance of a Warrant or Summons by a Magistrate—H.B. 976

by Representative Carter et al.—Senate Sponsor: Senator Carona

In 2009, the 81st Legislature authorized a warrant of arrest or a complaint to be forwarded by any method that ensures the transmission of a duplicate of the original warrant, including secure facsimile or secure other electronic device. This bill:

Authorizes a person to appear before the magistrate in person or the person's image to be presented to the magistrate through an electronic broadcast system.

Requires that a recording of the communication be made and preserved if the defendant is charged with the offense until the defendant is acquitted of the offense, or all appeals relating to the offense have been exhausted.

Informed Consent for Postmortem Examinations or Autopsies—H.B. 1009

by Representative Callegari—Senate Sponsor: Senator Hegar

In January 2004, Jerry Carswell was admitted to Christus St. Catherine Hospital for treatment of kidney stones but died after he was administered narcotics injections. Carswell's wife, Linda Carswell, filed a wrongful death suit and ultimately a breach of contract against the hospital for how Carswell was treated before and after he died. The lawsuit claims that a pathologist removed Carswell's heart during the autopsy to allegedly cover up the cause of death. The hospital was sanctioned for withholding evidence in a wrongful death lawsuit. This bill:

Prohibits a physician from performing, or assisting in the performance of, a postmortem examination or autopsy on the body of a deceased person unless the physician obtains the written informed consent of a person authorized to provide consent.

Authorizes a physician, if the physician is unable to identify or contact a person authorized to give consent to perform a postmortem examination or autopsy on the body of a deceased person not less than 24 hours and not more than 48 hours from the time of the decedent's death or the time the physician or other person took possession of the body.

Provides that the Act be known as the Jerry Carswell Memorial Act.

Contact Between Criminal Defendants and Victims—H.B. 1028

by Representatives Phillips and Carter—Senate Sponsor: Senator Estes

An offender who is released on parole may be prohibited from contacting the victim of his or her crime as a condition of his or her parole, but the law does not expressly authorize a court to prohibit an offender from contacting the victim during the term of imprisonment. This bill:

Authorizes the convicting court to prohibit a defendant from contacting the victim of the offense during the term of the defendant's confinement or imprisonment, as a part of the sentence.

Offense for Engaging in Cockfighting—H.B. 1043

by Representative Christian et al.—Senate Sponsor: Senator Lucio

Cockfighting has been a crime in Texas for many years, but the illegal activity is reportedly still rampant throughout the state. It is currently not a crime in Texas to own or operate a facility for cockfighting, own cockfighting equipment, train a cock to fight, or attend a cockfight. This bill:

Provides that it is a state jail felony for a person to knowingly cause a cock to fight with another cock or participate in the earnings of a cockfight.

Provides that it is a Class A misdemeanor to use or permit someone else to use any real estate, building, room, tent, arena, or other property for cockfighting; to own or train a cock for cockfighting; and to manufacture, buy, sell, barter, exchange, possess, advertise, or offer cockfighting equipment and attachments.

Provides that it is a Class C misdemeanor to attend a cockfighting exhibition as a spectator and a Class A misdemeanor for repeat offenders, unless the person is 15 years of age or younger.

Provides that it is an affirmative defense to prosecution to breed cocks solely for poultry shows and to collect cockfighting equipment as collectors' items.

Authority of County Jailers to Take Bail Bonds—H.B. 1070

by Representative Scott—Senate Sponsor: Senator Hinojosa

Sheriffs and peace officers take the bail bond of defendants held in county jails in Texas but licensed peace officers do not typically work in county jails. This bill:

Provides that a licensed jailer is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties.

Authorizes the sheriff, other peace officer, or a licensed jailer, in cases of a misdemeanor where the officer has a defendant in custody, to take a bail bond of a defendant.

Authorizes, in cases of a felony, the sheriff, other peace officer, or a licensed jailer to take a bail bond of the accused in the amount as fixed by the court.

Identification Cards for Honorably Retired Peace Officers—H.B. 1083

by Representatives Elkins and Fletcher—Senate Sponsor: Senator Hegar

The Government Code authorizes the law enforcement agency or other governmental entity that was the last to appoint or employ an honorably retired peace officer as a peace officer, on request of the officer who holds a certificate of weapons proficiency, to issue an identification card to the honorably retired peace officer. This bill:

Requires, rather than authorizes, the law enforcement agency or governmental entity to issue an identification card to the honorably retired peace officer.

Community Service for Offenses of Animal Cruelty—H.B. 1103

by Representatives Lucio III and Peña—Senate Sponsor: Senator Ellis

The community supervision provisions in the Code of Criminal Procedure do not authorize a judge to require an individual to attend responsible pet owner courses. This bill:

Authorizes a judge to require a person convicted of cruelty to livestock animals, attack on an assistance animal, cruelty to nonlivestock animals, or dog fighting to attend a responsible pet owner course sponsored by a municipal animal shelter that receives federal, state, county, or municipal funds and serves the county in which the court is located.

Providing Information to a Criminal Defendant—H.B. 1106

by Representative Johnson—Senate Sponsor: Senator West

Attorneys have often advised clients that if they accept and successfully complete a sentence for which they received deferred adjudication, the defendant would not have a criminal record. Many employers routinely run criminal background checks on job applicants and current employees and numerous companies now specialize in selling criminal history records. Even records with charges that have been dismissed with deferred adjudication are subject and available to public disclosure. This bill:

Requires the courts to inform a defendant who is being placed on deferred adjudication of his or her eligibility regarding an order of nondisclosure.

Requires the courts to provide a defendant who has had charges dismissed through deferred adjudication with a copy of the order of dismissal and discharge.

Requires the courts to inform a person eligible for an order of nondisclosure of the earliest date of that eligibility.

Conditions of Community Supervision for Controlled Substance Offenses—H.B. 1113

by Representative Raymond et al.—Senate Sponsor: Senator Zaffirini

A Texas judge recently addressed juvenile drug use and dealing by creating a program that set up a court-in-school situation in which the judge and staff traveled once a month to high school classrooms throughout the county to sentence juvenile defendants who pled guilty to a drug offense. After sentencing, the defendants were provided the opportunity to address the students attending the court-in-school presentation about the dangers and consequences of the defendant's actions. The time spent addressing the students counted toward the defendant's mandatory community service term. High schools throughout that county continue to partner with the judge to participate in this program. This bill:

Authorizes a judge to order the sentencing hearing of a defendant convicted of an offense involving possession, manufacture, or delivery of a controlled substance to be held at a secondary school if the sentencing hearing is determined to have educational value; the defendant agrees; the school administration agrees; and appropriate measures are taken to ensure the safety of the students.

Authorizes a judge, if the judge orders a defendant placed on community supervision for an offense involving possession, manufacture, or delivery of a controlled substance to perform community service, to authorize the defendant to perform not more than 30 hours of community outreach in lieu of hours of community service.

Consent to Medical Treatments on Behalf of Certain Inmates—H.B. 1128

by Representative Menendez—Senate Sponsor: Senator Van de Putte

In 1993, the legislature created the Consent to Medical Treatment Act, which authorized consent for medical treatment to be made by a surrogate decision maker on behalf of an incapacitated, comatose, or otherwise mentally or physically incapable patient in a nursing facility or hospital. At that time, only a competent adult patient or the patient's temporary or permanent guardian could consent to non-emergency medical or surgical treatment, but doctors found that incapacitated patients often need immediate treatment for conditions not considered an emergency. In 2007, the legislature added "home and community support services" to the list of facilities that may seek a surrogate decision maker in the Consent to Medical Treatment Act. This bill:

Includes in the definition of "patient" an inmate of a county or municipal jail.

Authorizes an available adult surrogate to consent to medical treatment on behalf of a patient who is an adult inmate of a county or municipal jail.

Prohibits a surrogate decision-maker from consenting to psychotropic medication; involuntary inpatient mental health services; or psychiatric services calculated to restore competency to stand trial if the patient is an adult inmate in a county or municipal jail.

Authorizes a person who is an available adult surrogate to consent to medical treatment on behalf of a patient who is an adult inmate of a county or municipal jail only for a period that expires on the earlier of the 120th day after the date the person agrees to act as an adult surrogate for the patient or the date the inmate is released from jail.

Provides that a successor surrogate may not be appointed and only the patient or the patient's appointed guardian of the person may consent to medical treatment.

Transmission of Records for the Sale of Certain Over-the-Counter Medications—H.B. 1137

by Representative Darby et al.—Senate Sponsor: Senator Estes

State and federal law limits the amount of nonprescription ephedrine, pseudoephedrine, or norpseudoephedrine (PSE) that can be purchased to prevent the diversion of PSE into methamphetamine production. A multi-state PSE electronic tracking/blocking system could effectively contribute to efforts to stop individuals from purchasing legal limits of PSE in order to accumulate illegal quantities. This bill:

Requires a business establishment that engages in the sales of over-the-counter ephedrine, pseudoephedrine, or PSE to require the purchaser to display a driver's license or other form of government-issued photo identification indicating that the individual is 16 years of age or older and sign for the purchase.

Requires the business to make and transmit a record of the sale into a real-time electronic logging system.

Prohibits a business from selling more than 3.6 grams of ephedrine, pseudoephedrine, PSE, or a combination of those substances within one calendar day.

Prohibits a business from selling more than nine grams of ephedrine, pseudoephedrine, PSE, or a combination of those substances within any 30-day period.

Authorizes the State Board of Pharmacy, on application by a business, to grant that business a temporary exemption, not to exceed 180 days, from the requirement of using a real-time electronic logging system.

Requires the business to maintain a written record or electronic record made by any means and enter the information in the real-time electronic logging system as soon as practicable after the system becomes operational.

Provides that the privacy protections provided under the Code of Federal Regulations apply to information entered or stored in a real-time logging system.

Release on Bond for Certain Misdemeanor Arrests—H.B. 1173

by Representative Riddle—Senate Sponsor: Senator Huffman

Statutory time constraints reportedly have a limiting effect on investigations and officials are often unable to conduct initial hearings within the current time allotment, resulting in the need to seek an extension on a high number of cases. This bill:

Provides that a person arrested without a warrant for a misdemeanor in a county with a population of three million or more who is detained in jail must be released on bond in an amount not to exceed \$5,000 within 36, rather than 24, hours after the person's arrest if the magistrate has not determined whether probable cause exists to believe that the person committed the offense.

Requires a county with a population of three million or more to conduct an impact study to determine the effect on the county's ability to control and process the county's misdemeanor caseload.

Requires the county to determine whether a more cost-effective method of controlling and processing misdemeanor caseloads exists than an extension of the period for which a person may be detained after a misdemeanor arrest.

Requires the county to file the impact study, no later than October 15, 2012, with the commissioners court of the county, the Senate Committee on Criminal Justice, the Senate Committee on Jurisprudence, and the House Criminal Jurisprudence Committee.

Requires the county to make the results of the impact study available to the public.

Penalty for Certain Intoxication Offenses—H.B. 1199

by Representatives Gallego and Martinez Fischer—Senate Sponsor: Senator Davis

A person who commits a driving while intoxicated (DWI) offense and causes serious bodily injury to another individual can be charged with intoxication assault, which is a third degree felony, with certain exceptions. Serious bodily injury is defined as an injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Currently, there is no distinction between a DWI offense that causes serious bodily injury and such an offense that leaves a person in a persistent vegetative state. This bill:

Provides that a DWI offense is a Class A misdemeanor if the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed.

Provides that an intoxication assault offense is a second degree felony if the person caused serious bodily injury to another in the nature of a traumatic brain injury that results in a persistent vegetative state.

Community Supervision and Time Credits—H.B. 1205

by Representative Turner et al.—Senate Sponsor: Senator Ellis

Evidence suggests that positive reinforcement is more effective than negative reinforcement for promoting behavioral changes. This bill:

Provides that time credits may be awarded to a defendant who is granted community supervision for an offense punishable as a state jail felony or a third degree felony, excluding intoxication and alcoholic beverage offenses, family violence, reportable conviction or adjudication, kidnapping, and arson.

Provides that time credits may be awarded to a defendant who is not delinquent in paying required fines, costs, or fees and who has fully satisfied any order to pay restitution to a victim.

Entitles an eligible defendant to receive any combination of time credits toward completion of the defendant's period of community supervision if the court ordered the defendant as a condition of community supervision to earn a certificate, diploma, or degree; make a payment; or complete a treatment or rehabilitation program.

Unauthorized Acquisition or Transfer of Financial Information—H.B. 1215

by Representatives McClendon and Carter—Senate Sponsor: Senator Uresti

Criminals use various tactics to obtain personal financial data without the victim being aware that the personal information is being stolen. This bill:

Provides that a person commits a Class B misdemeanor if the person obtains the financial sight order or payment card information of another by use of an electronic, photographic, visual imaging, recording, or other device capable of accessing, reading, recording, capturing, copying, imaging, scanning, reproducing, or storing in any manner the financial sight order or payment card information.

Provides that a person commits a Class A misdemeanor if the person transfers to a third party the obtained information financial sight order or payment card information.

Requires a peace officer to whom an alleged violation is reported to make a written report that includes the name of the victim, the name of the suspect, the type of financial sight order or payment card information obtained or transferred, and the result of any investigation.

Civil Process on an Inmate of the Texas Department of Criminal Justice—H.B. 1381

by Representative Madden—Senate Sponsor: Senator Whitmire

Sheriffs and constables must spend an extensive amount of time passing through multiple security checkpoints at a Texas Department of Criminal Justice (TDCJ) facility in order to serve civil process on an inmate. This bill:

Authorizes a third person to accept service on behalf of an inmate.

Requires the warden of each TDCJ facility to designate an employee at the facility to serve as an agent for service of civil process on inmates confined in the facility.

Requires an employee designated as an agent for service of civil process to promptly deliver any civil process served on the employee to the appropriate inmate.

Criminal Conviction of Law Enforcement Officers—H.B. 1402

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Licensed peace officers are exempt from laws pertaining to occupational licenses, but other law enforcement officers, including county jailers, are only partially exempt, despite being licensed by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). This bill:

Provides that Section 53.002 (Applicability of Chapter), Chapter 53 (Consequences of Criminal Conviction), Occupations Code, does not apply to a person licensed or an applicant for a license under Chapter 1701 (Law Enforcement Officers), Occupations Code.

Licensing and Regulation of Dog and Cat Breeders—H.B. 1451

by Representative Thompson et al.—Senate Sponsor: Senator Whitmire

Many retail and Internet pet sellers acquire their animals from breeding facilities, which also sell directly to the public through newspaper and Internet ads. These facilities oftentimes do not provide adequate and humane care for the

animals they are breeding, many times failing to keep animals properly sheltered or to provide adequate veterinary attention. This bill:

Provides that this legislation be known as the Dog or Cat Breeders Act.

Defines "dog or cat breeder" as a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale or for exchange in return for consideration and who sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year.

Exempts animals regulated under the Texas Racing Act.

Exempts dogs bred with the intent that they be used primarily for herding livestock, hunting, or competing in field trials.

Grants rulemaking authority to the Texas Commission of Licensing and Regulation (TCLR).

Requires TCLR to establish reasonable and necessary fees in amounts sufficient to cover the costs of administration and enforcement.

Authorizes the Texas Department of Licensing and Regulation (TDLR) to employ personnel necessary to carry out the functions and duties of TDLR.

Requires TDLR to conduct criminal background checks on each applicant who submits an application for a license and on any controlling person of the applicant; to maintain a directory of licensed breeders and registered third-party inspectors; and to make the directory available to the public.

Requires TDLR to maintain a database of dog or cat breeders who have been subject to disciplinary action and to make the information available to the public.

Requires TDLR to inspect each facility of a licensed breeder at least once in every 18-month period and at other times as necessary to ensure compliance.

Requires a person conducting an inspection or an investigation to notify the appropriate local law enforcement agency within 24 hours after discovering evidence of animal cruelty or neglect.

Requires TCLR to establish an advisory committee to advise TCLR and make recommendations on matters related to administration and enforcement.

Requires a person to hold a license as a dog or cat breeder for each facility that the person owns or operates in the state.

Authorizes TCLR to establish requirements for issuance or renewal of a license issued to a dog or cat breeder.

Requires TDLR to inspect a facility before a license is issued for a facility and prohibits TDLR from issuing a license to a dog or cat breeder until TDLR receives a prelicense inspection report certifying that the facility meets the requirements for licensing.

Provides that a license is valid until the first anniversary of the date of issuance and is nontransferable.

Provides that a licensed breeder may renew the person's license by submitting a renewal application, complying with any other renewal requirements adopted by TDLR, and paying a fee.

Requires TDLR to deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the dog or cat breeder has pled guilty, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the preceding five years.

Requires TDLR to revoke a license if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or other jurisdiction.

Requires a breeder to prominently display a copy of the license and maintain copies of other relevant licensing information at the breeder's facility.

Requires a licensed breeder to notify TDLR of any change in the address, name, management, or controlling person of the business or operation within 10 days of the change.

Requires a licensed breeder to submit to TDLR an annual accounting of all animals held at the facility.

Requires TCLR to adopt rules establishing minimum standards for the humane handling, care, housing, and transportation of dogs and cats by a dog or cat breeder to ensure the overall health, safety, and well-being of each animal in the breeder's possession.

Provides minimal federal standards that must be met by all cat or dog breeders.

Establishes that a person who violates this chapter or adopted rule is subject to any action or penalty under Subchapter F (Administrative Penalty) or Subchapter G (Other Penalties and Enforcement Provisions), Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code.

Fraudulent Use or Possession of Identifying Information—H.B. 1529

by Representatives Sid Miller and Harper-Brown—Senate Sponsor: Senator Wentworth

A person commits the offense of fraudulent use or possession of identifying information or "identification (ID) theft" if the person obtains, possesses, transfers, or uses identifying information of another person without the other person's consent and with the intent to harm or defraud another.

In 2007, the Texas Legislature changed the offense to include the fraudulent use or possession of a deceased person's or a child's information. The definition of "identifying information" was amended to require either a name and date of birth, a name and Social Security number, or a name and government-issued identification number. This bill:

Provides that "identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name and date of birth; unique biometric data, including the person's fingerprint, voice print, or retina or iris image; unique electronic identification number, address, routing code, or financial institution account number; telecommunication identifying information or access device; and Social Security number or other government-issued identification number.

County Employment or Contracts for Health Care Providers—H.B. 1566

by Representative Coleman—Senate Sponsor: Senator Gallegos

Nonprofit medical schools, federally qualified health centers, and certain nonprofit corporations may employ physicians. In 2009, specific authorization was granted to the Dallas County Hospital District to also employ

physicians. The Harris County Hospital District and the Harris County Sheriff's Office requested express statutory clarification of the relationship of government entities with physicians and other health care providers. This bill:

Authorizes the commissioners court of a county to appoint, contract for, or employ licensed physicians, dentists, or other health care providers to provide health care services to inmates in the custody of the sheriff.

Provides that this legislation may not be construed as authorizing a commissioners court to supervise or control the practice of medicine or dentistry, as provided by the Occupations Code.

County Employment or Contracts for Health Care Providers in Certain Counties—H.B. 1567

by Representative Coleman—Senate Sponsor: Senator Gallegos

Nonprofit medical schools, federally qualified health centers, and certain nonprofit corporations may employ physicians. In 2009, specific authorization was granted to the Dallas County Hospital District to also employ physicians. The Harris County Hospital District and the Harris County Sheriff's Office requested express statutory clarification of the relationship of government entities with physicians and other health care providers. This bill:

Authorizes the commissioners court of a county with a population of 3.3 million or more to appoint, contract for, or employ licensed physicians, dentists, or other health care providers to provide health care services to inmates in the custody of the sheriff.

Provides that this legislation may not be construed as authorizing a commissioners court to supervise or control the practice of medicine or dentistry, as provided by the Occupations Code.

Gang Activity That Constitutes a Public Nuisance—H.B. 1622

by Representative Menendez—Senate Sponsor: Senator Wentworth

Current law defines "gang activity" to include certain types of conducts, including a graffiti offense that causes a pecuniary loss of \$500 or more, or occurs at a school, an institution of higher education, a place of worship or human cemetery, a public monument, or a community center that provides medical, social, or educational programs.

Current law also provides that if an appeal is not taken by a person temporarily enjoined, a person is entitled to a trial on the merits not later than the 90th day after the date of the temporary injunction order. This bill:

Defines "gang activity" to include a graffiti offense in violation of Section 28.08 (Graffiti), Penal Code.

Entitles a person to a trial on the merits not later than the 90th day after the date of the temporary injunction order, unless otherwise ordered by the court.

Prosecution of Online Impersonation—H.B. 1666

by Representatives Castro and Gallego—Senate Sponsor: Senator Watson

Current law states that a person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site. A social networking site, such as Facebook, MySpace, or Twitter, is considered an online service, platform, or site that focuses on building social networks or social communications among people who share interests and/or activities.

Craigslist is a centralized network of online communities, featuring classified ads, with sections devoted to jobs, housing, personals, sales, services, and discussion forums, among other things. Craigslist is not considered a social networking site. This bill:

Provides that a person commits an offense if the person, without obtaining the other person's consent and with the intent to harm, defraud, intimidate, or threaten any person, uses the name or persona of another person to create a web page on a commercial social networking site or other Internet website, or post or send one or more messages on or through a commercial social networking site or other Internet website, other than on or through an electronic mail program or message board program.

Protective Orders for Victims of Sexual Assault or Stalking—H.B. 1721

by Representatives Lucio III and Hartnett—Senate Sponsor: Senator Zaffirini

Under current law, a court is authorized to render a protective order for certain victims of physical family violence and sexual assault. Victims of stalking are not eligible for this court order.

A child is allowed to testify at a hearing on an application for a protective order for a victim of sexual assault, but hearsay evidence is not allowed to be submitted at such a hearing. This bill:

Authorizes a person, at any proceeding related to an offense of stalking, in which the defendant appears before the court, to request the court to render a protective order for the protection of the person.

Provides that in a hearing on application of a protective order, a statement that is made by a child younger than 14 years of age who is the victim of an offense relating to continuous sexual abuse of a young child or children, indecency with a child, sexual assault, or aggravated sexual assault, and that describes the offense committed against the child is admissible as evidence.

Temporary Housing Costs for Certain Inmates—H.B. 1770

by Representative Madden—Senate Sponsor: Senator Whitmire

When an offender is approved for parole, TDCJ contracts with halfway houses and county jails for those offenders who do not have approved addresses. These halfway houses and county jails often remain at maximum contract capacity, and offenders who have been approved for parole must wait in prison. This bill:

Authorizes TDCJ to issue payment for the cost of temporary post-release housing for an inmate who is eligible for release on parole or to mandatory supervision for a releasee contingent on TDCJ's not operating or contracting for the operation of a residential correctional facility in the county of legal residence of the inmate or releasee.

Requires the temporary post-release housing to be in a structure that existed on June 1, 2009, as a multifamily residence or as a motel.

Prohibits the amount of payment issued for temporary post-release housing from exceeding an amount equal to the cost TDCJ would incur to incarcerate the inmate or releasee in a facility operated by or under the contract with TDCJ or to house the inmate or releasee in a residential correctional facility.

Authorizes TDCJ to issue payment for temporary post-release housing for a structure that did not exist as a multifamily structure residence or motel if TDCJ or the owner of the structure provides notice of the proposed use of the structure and a hearing on the issue of whether the use is appropriate.

Requires TDCJ to report specific statistics on the issuance of payment for temporary post-release housing for the preceding year to the presiding officer of each legislative standing committee with primary jurisdiction over TDCJ.

Withdrawal of Security by a Bail Bond Surety—H.B. 1822

by Representative Harless—Senate Sponsor: Senator Huffman

In counties where a bail bond business is regulated under the Occupations Code, an individual or an insurance company may obtain a license to write bail bonds. Each license holder may be required to place a security deposit with the county and then write bonds on a prescribed ratio to the value of that security deposit. The release of this security can become an issue when an individual stops conducting business. This bill:

Authorizes a license holder to withdraw the security or a portion of the security deposited or executed and requires that the security be returned to the license holder or the license holder's heirs or assigns, if the person requesting the withdrawal is a license holder in good standing and the amount of the security remaining is at least the minimum amount sufficient to maintain the required ratios; or a former license holder or a former license holder's heir or assign, and the amount of the security remaining is sufficient to pay any outstanding judgments, and secure any unexpired obligation on a bail bond.

Authority to Execute Bail Bonds and Act as Sureties—H.B. 1823

by Representative Harless—Senate Sponsor: Senator Huffman

Texas counties fall under two distinct schemes for the regulation of the bail bond business, based primarily on the population size of the county. In some counties, the bail bond business is regulated under the Occupations Code, and in others, under the Code of Criminal Procedure. This bill:

Authorizes a corporation to limit the authority of an agent by specifying the limitation in the power of attorney that is filed with the county clerk.

Prohibits a person, for compensation, from acting as a surety on a bail bond if the person has been finally convicted of a misdemeanor involving moral turpitude or a felony.

Prosecution of and Punishment for Tampering With a Witness—H.B. 1856

by Representative Woolley—Senate Sponsor: Senator Patrick

The intimidation or coercion of a witness is a state jail felony. Witnesses of violent crimes are often hesitant to tell police what they know, especially if the crime involves gang violence or when the accused is released on bond. This bill:

Provides that tampering with a witness is an offense in the same category as the most serious offense charged in that criminal case.

Increases the offense of witness tampering in non-criminal cases to a third-degree felony.

Search Warrants for Data or Information—H.B. 1891

by Representative Sarah Davis—Senate Sponsor: Senator Huffman

A law enforcement officer generally has three days to execute a certain type of search warrant signed by a judge. In cases that rely on digital evidence, such as child pornography, officers usually seize computers when executing a search warrant. It can take weeks or months to fully analyze a computer or electronic storage device that has been seized to collect the contraband evidence. This bill:

Provides that if a warrant is issued to search for and seize data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic, communication, or data storage device, the warrant is considered to have been executed within the time allowed by the Code of Criminal Procedure if the device was seized before the expiration of the time allowed.

Provides that any data or information contained in or on a device seized may be recovered and analyzed after the expiration of the time allowed by the Code of Criminal Procedure, notwithstanding any other law.

Prostitution Prevention Program—H.B. 1994

by Representative Weber—Senate Sponsor: Senator Van de Putte

In an effort to reduce demand for commercial sex and human trafficking, programs have been established nationwide to educate those arrested for solicitation about the negative consequences of prostitution. Approximately 20 such programs exist outside the United States. A 2008 report published by Abt Associates, Inc. revealed that in locations where such programs exist, recidivism drops considerably. This bill:

Creates a first offender prostitution prevention program (program) to include integration of services in processing cases; use of a nonadversarial approach involving prosecutors and defense attorneys; early identification and prompt placement of eligible participants; access to information, counseling, and services; a coordinated strategy to govern program responses and compliance; monitoring and evaluation of goals and effectiveness; continuing interdisciplinary education; and development of partnerships with public and community entities.

Requires the court, if a defendant successfully completes the program, to enter an order of nondisclosure as if the defendant had received a discharge and dismissal with respect to all records and files related to the defendant's arrest if the defendant has not been previously convicted of a felony offense and is not convicted of any other felony offense within two years of successful completion of the program.

Authorizes the commissioners court of a county or governing body of a municipality to establish a first offender prostitution prevention program.

Provides that a defendant is eligible to participate in the program only if the attorney representing the state consents to the defendant's participation in the program and the court in which the criminal case is pending finds that the defendant has not been previously convicted of trafficking of persons, prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, murder, indecency with a child, or an offense under the Controlled Substance Act punishable by a felony.

Provides that a person eligible for participation in the program must be provided legal counsel before volunteering to proceed through the program and while participating in the program.

Allows any participant to withdraw from the program at any time before the trial is initiated.

Requires that each participant be provided with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse and classroom instruction related to the prevention of prostitution.

Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of the program.

Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of the program.

Allows a program to collect from a program participant a nonrefundable program fee in a reasonable amount not to exceed \$1,000, for counseling and victim services and law enforcement training.

Criminal and Civil Consequences of Human Trafficking and Related Offenses—H.B. 2014

by Representative Thompson et al.—Senate Sponsor: Senator Van de Putte

In Texas, the Houston and Dallas Innocence Lost operations run by the Federal Bureau of Investigation, the United States Department of Justice, and the National Center for Missing and Exploited Children rescued more than 109 children from traffickers in fiscal year 2010.

In 2009, the Texas Legislature created a statewide Human Trafficking Prevention Task Force (task force) within the OAG to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes. This bill:

Requires the Texas Alcoholic Beverage Commission (TABC) to refuse to issue for a period of three years a permit or license to an applicant on a protest involving allegations of trafficking of persons.

Requires TABC to give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis of suspension is a violation of trafficking of persons.

Requires the county judge, commission, or administrator to refuse to approve or issue for a period of one year a retail dealer's on-premise license or a wine and beer retailer's permit for a premise where a license or permit has been canceled during the preceding 12 months as a result of prostitution or trafficking of persons.

Provides that Article 17.153(a) (Denial of Bail for Violation of Conditions of Bond Where Child Alleged Victim), Code of Criminal Procedure, applies to a defendant who is alleged to have trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefitted from participating in a venture that involved a trafficked child engaging in sexual conduct.

Requires the court to order a defendant convicted of trafficking of persons or compelling prostitution to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.

Provides that the provisions for community supervision found in Section 13B (Defendants Placed on Community Supervision for Sexual Offenses Against Children), Article 42 (Judgment and Sentence), Code of Criminal Procedure, apply to defendants placed on community supervision who trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct or benefitted from participating in a venture that involved a trafficked victim engaging in sexual conduct.

Includes in the definition of "contraband" property of any nature, including real, personal, tangible, or intangible, that is used to facilitate or intended to be used to facilitate the commission of a felony involving trafficking of persons or public indecency.

Requires information in a computerized criminal history system to include the age of the victim of the offense if the defendant was arrested for or charged with trafficking of persons or compelling prostitution.

Requires the Office of Court Administration of the Texas Judicial System (OCA), a district court, or county court at law to report the number of cases filed for trafficking of persons, prostitution, and compelling prostitution.

Requires the bureau of identification and records within DPS to collect information concerning the number and nature of offenses involving trafficking of persons and compelling prostitution.

Requires that conditions provided in the Government Code regarding child safety zones apply to released defendants who trafficked the victim with the intent of knowledge that the victim would engage in sexual conduct or benefitted from participating in a venture that involved a trafficked victim engaging in sexual conduct.

Allows the criminal justice division to use money from the trafficking of persons investigation and prosecution account solely to distribute grants to qualified applicants.

Provides that an offense regarding the sale or purchase of a child is a second degree felony if the actor commits the offense with the intent of trafficking the victim, prostitution, compelling prostitution, or sexual performance by a child.

Provides that the offense of prostitution is a Class A misdemeanor if the actor has previously been convicted one or two times; a state jail felony if the actor has previously been convicted three or more times; a third degree felony if the person solicited is 14 years of age or older and younger than 18 years of age; and a second degree felony if the person solicited is younger than 14 years of age.

Provides that the offense of employment harmful to children is a first degree felony if the child is younger than 14 years of age at the time the offense is committed.

Synthetic Compounds of the Texas Controlled Substances Act—H.B. 2118

by Representative Coleman et al.—Senate Sponsor: Senator Estes

"Bath salts" is a legal drug containing mephedrone that comes in the form of tablets or a powder, which users can swallow, snort, or inject, reportedly producing effects similar to MDMA (Ecstasy), amphetamines, and cocaine. Compounds used in making bath salts are Schedule I drugs under the Controlled Substances Act, meaning that they have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and that there is a lack of accepted safety for use of the drug under medical supervision. Schedule I drugs are illegal for human consumption under the Federal Analog Act. This bill:

Includes any quantity of a list of certain synthetic hallucinogenic substances, their salts, isomers, and salts of isomers to Penalty Group 2 of the Texas Controlled Substances Act.

Notification of Release of Defendant Acquitted by Reason of Insanity—H.B. 2124

by Representative Workman—Senate Sponsor: Senator Huffman

When a defendant is acquitted by reason of insanity, the person remains under the jurisdiction of the court. In such cases, the person is often committed to patient care in a state hospital. When the acquitted person is released, the

clerk of the releasing court provides the victim's name and contact information to TDCJ Victim services division so the division can notify the victim or the victim's guardian or close relative of the release. Delays in this notification may occur if the person was not in a TDCJ facility and the victim services division must rely on the court to provide the patient information and victim contact information. This bill:

Requires the clerk of the court, if the court issues an order that requires the release of an acquitted person on discharge or on a regimen of outpatient care, using the information provided on any victim impact statement received by the court or other information made available to the court, to notify the victim or the victim's guardian or close relative of the release.

Authorizes the clerk of the court to inspect a victim impact statement for the purpose of notification under this article.

Use of Electronic Tracking and Tracing Equipment in Correctional Facilities—H.B. 2354

by Representative Madden—Senate Sponsor: Senator Whitmire

The ability of law enforcement and criminal justice authorities to access telephone communications, both land and cellular, for certain criminal or investigative purposes, has proven critical to the resolution of some investigations. As cellular communications increasingly have become the preferred form of communication, the need to track these communications quickly during certain criminal episodes, such as an escape from custody, has also increased. TDCJ is currently authorized to possess and use certain electronic, mechanical, or other tracking devices, such as cell phone tracking equipment, to intercept wire, oral, or electronic communications.

An "ESN reader" is device that records the electronic serial number from the data track of a wireless telephone, cellular telephone, or similar communication device that transmits its operational status to a base site, if the device does not intercept the contents of a communication. A "mobile tracking device" is an electronic or mechanical device that permits tracking the movement of a person, vehicle, container, item, or object. A "pen register" is a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted. This bill:

Defines "authorized peace officer" to include an enforcement officer appointed by the inspector general of TDCJ.

Defines "designated law enforcement office or agency" to include the office of inspector general of TDCJ.

Requires, if the director of the DPS approves the policy, the inspector general of TDCJ, or the sheriff or chief of a designated law enforcement agency, as applicable, to submit to the director of DPS a written list of all officers in the designated law enforcement office or agency who are authorized to possess, install, monitor, or operate pen registers, ESN readers, or similar equipment.

Requires the inspector general of TDCJ or the sheriff or chief of a designated law enforcement agency, as applicable, to submit to the director of DPS a written report of expenditures made by the designated law enforcement office or agency for the purchase and maintenance of a pen register, ESN reader, or similar equipment.

Authorizes the director of DPS, the inspector general of TDCJ, or the sheriff or chief of a designated law enforcement agency to issue an administrative subpoena to a communications common carrier or an electronic communications service to compel the production of the carrier's or service's business records.

DNA Database at the University of North Texas Health Science Center—H.B. 2385

by Representative Geren—Senate Sponsor: Senator Harris

The University of North Texas Health Science Center at Fort Worth (UNTHSC) Missing Persons DNA Database (database) was created in 2001. The UNTHSC database has the expertise to directly upload forensic cases into the Combined DNA Index System (CODIS) once permission is granted by the Federal Bureau of Investigation (FBI). The UNTHSC database currently only has the ability to directly upload missing persons and unidentified human remains cases, but complete access to CODIS would provide the ability to directly upload DNA profiles from both forensic and criminal cases, as well as missing persons and unidentified human remains cases directly into CODIS. This bill:

Requires a criminal justice agency that performs forensic DNA analyses on evidence, including evidence related to a case involving unidentified human remains or a high-risk missing person, to comply with Section 14132 (Index to Facilitate Law Enforcement Exchange of DNA Identification Information), Title 42 (Public Health and Welfare Chapter), United States Code.

Allows the database to be used, but not as the sole purpose, to identify unidentified human remains and high-risk missing persons.

Reporting to the National Crime Information Center—H.B. 2472

by Representative Marquez—Senate Sponsor: Senator Rodriguez

A warrant or *capias* issued for a defendant charged with an offense other than a Class C misdemeanor who fails to appear in court when summoned is reported to the National Crime Information Center (NCIC). The report is required for each warrant or *capias* issued for misdemeanors and felonies, even when persons are not extradited from other states on misdemeanors. Noncompliance with the reporting requirement may occur because it takes almost an hour to enter and report the warrant or *capias* information to the national crime information center. This bill:

Requires the sheriff to report to NCIC no later than 30 days after the warrant or *capias* is issued each warrant or *capias* issued for a defendant charged with a felony who fails to appear in court when summoned.

Authorizes the sheriff to report to NCIC no later than 30 days after the warrant or *capias* is issued each warrant or *capias* issued for a defendant charged with an offense other than a Class C misdemeanor who fails to appear in court when summoned.

Prosecution and Punishment Involving Theft—H.B. 2482

by Representative Pena et al.—Senate Sponsor: Senator Williams

Organized retail crime is the orchestrated scheme to convert stolen goods to cash and can be described as professional burglars, boosters, cons, thieves, fences, and resellers conspiring to steal and sell retail merchandise obtained from retail establishments by theft or deception. The term "booster" refers to a front line thief who steals with the intention of reselling the stolen goods. This bill:

Provides that the punishment for certain offenses of theft, ranging from a Class C misdemeanor to a felony, depending upon the value of the property stolen, is increased to the next higher category of offense if during the commission of the offense, the actor intentionally, knowingly, or recklessly caused a fire exit alarm to sound or otherwise become activated; deactivated or prevented a fire exit alarm or retail theft detector from sounding; or used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector.

Provides that a person commits an offense if the person intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of stolen retail merchandise or merchandise explicitly represented to the person as being stolen retail merchandise.

Provides that the offense of theft is a Class B misdemeanor if the total value of the merchandise is less than \$50; a Class A misdemeanor if the total value of the merchandise is \$50 or more but less than \$500; a state jail felony if the total value of the merchandise is \$500 or more but less than \$1,500; a third degree felony if the value of the merchandise is \$1,500 or more but less than \$20,000; a second degree felony if the total value of the merchandise is \$20,000 or more but less than \$100,000; and a first degree felony if the total value of the merchandise is \$100,000 or more.

Transporting a Foster Child While Carrying a Concealed Handgun—H.B. 2560

by Representative Sheffield et al.—Senate Sponsor: Senator Estes

Currently, the Department of Family and Protective Services (DFPS) prohibits a foster parent from carrying a licensed concealed handgun in a vehicle where a foster child is present. This bill:

Provides that DFPS may not prohibit a foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun.

Unlawful Use of a Criminal Instrument or Mechanical Security Device—H.B. 2577

by Representative Sid Miller—Senate Sponsor: Senator Hegar

Locksmith tools are designed specifically for repairing and defeating locks and lock systems and can be purchased at many retail outlets and online without any credentials and licensing procedures. This bill:

Defines "criminal instrument" as anything, the possession, manufacture, or sale of which is not otherwise an offense, that is specially designed, made, or adapted for use in the commission of an offense.

Defines "mechanical security device" as a device designed or manufactured for use by a locksmith to perform services for a customer who seeks entry to a structure, motor vehicle, or other property.

Provides that a person commits an offense if the person possesses a criminal instrument or mechanical security device with the intent to use the instrument or device in the commission of an offense or if, with the intent to use a criminal instrument or mechanical security device or aid or permit another to use the instrument or device in the commission of an offense, the person manufactures, adapts, sells, installs, or sets up the instrument or device.

Diligent Participation Credit for Defendants in a State Jail Felony Facility—H.B. 2649

by Representative Allen—Senate Sponsor: Senator Ellis

Good conduct time is awarded to certain incarcerated offenders for good conduct and diligent participation in specific programs and may be reduced or removed for bad behavior or other disciplinary infractions as a disciplinary management mechanism. Good conduct time is granted for time served by the offender and is used to calculate an offender's eligibility for parole consideration. Currently, good conduct time is not available to those offenders confined in a state jail felony facility. This bill:

Provides that a defendant confined in a state jail felony facility may be awarded diligent participation credit.

Provides that diligent participation credit includes successful completion of an educational, vocational, or treatment program; progress toward successful completion of an educational, vocational, or treatment program that was interrupted by illness, injury, or another circumstance outside the control of the defendant; and active involvement in a work program.

Requires TDCJ to report to the sentencing court the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence.

Authorizes a judge to credit against any time a defendant is required to serve in a state jail felony facility additional time, within limits and conditions, for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program.

Determining Missing Status of a Child—H.B. 2662

by Representative Hochberg et al.—Senate Sponsor: Senator Hinojosa

It is illegal in Texas for a parent to take or retain a child against the terms of a court order on custody, or while a court order on custody has been filed. A parent who is still married to the other parent, without any custody order in place or in process, may take or retain the child without violating any Texas law. This bill:

Defines a "missing child" as a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that the child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law; the child voluntarily left the care and control of the custodian without the custodian's consent and without intent to return; the child was taken or retained in violation of the terms of a court order for possession of or access to the child; or the child was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence against the child or the actor.

Determination of Competency in Criminal Cases—H.B. 2725

by Representative Hartnett—Senate Sponsor: Senator Williams

Competency restoration services are ordered for persons who have been ruled to be unable to stand trial because they do not have the ability to consult with their attorney within a reasonable degree of rational understanding or do not have a rational or factual understanding of the proceedings against them. These persons are ordered for forensic commitment to the state mental hospital if a bed is available. The lack of available beds for forensic commitment has caused a backlog in county jails. This bill:

Requires the judge of the court in which the defendant is convicted to give the defendant credit on the defendant's sentence for the time that the defendant served confined in a mental health facility, residential care facility, or jail, pending trial.

Establishes that a suggestion of incompetency is the threshold requirement for an informal inquiry and may consist solely of a representation from any credible source that the defendant may be incompetent.

Requires a court sentencing a person convicted of a criminal offense to credit to the term of the person's sentence any period of confinement that occurs pending determination as to the defendant's competency to stand trial; and any period of confinement that occurs between the date of any initial determination of the defendant's incompetency

and the date the person is transported to jail following a final judicial determination that the person has been restored to competency.

Provides that the maximum period of restoration for commitment or outpatient treatment program is two years.

Provides that upon the expiration of the maximum restoration period, the defendant may be confined for an additional period by a court with probate jurisdiction, with the cumulative period beginning on the date the initial order of commitment or initial order for outpatient treatment program participation.

Requires the court to dismiss the charge or set the matter to be heard not later than the 10th day after the date of filing of the motion and authorizes the court to dismiss the charge on a finding that the defendant was not tried before the expiration of the maximum period of restoration.

Includes in the factors considered in a competency examination, factors supported by current indications and the defendant's personal history; whether the defendant has a mental illness or is a person with mental retardation; whether the identified condition has lasted or is expected to last continuously for at least one year; the degree of impairment resulting from the mental illness or mental retardation, if existent, and the specific impact on the defendant's capacity to engage with counsel in a reasonable and rational manner.

Provides that an expert's report to the court must state an opinion on a defendant's competency or incompetency to stand trial or explain why the expert is unable to state such an opinion and must also describe in specific terms the procedures, techniques, and tests used in the examination and the conclusions reached.

Prohibits the expert's opinion on the defendant's competency or incompetency to be based solely on the defendant's refusal to communicate during the examination.

Provides that if in the opinion of the expert, the defendant is incompetent to proceed, the expert must state in the report the symptoms, severity, and expected duration of the deficits resulting from the defendant's mental illness or mental retardation, if any, and the impact of the identified condition on the factors listed; an estimate of the period needed to restore the defendant's competency, including whether the defendant is likely to be restored to competency in the foreseeable future.

Requires the court, on the determination that a defendant is incompetent to stand trial and is unlikely to be restored to competency in the foreseeable future, to commit the defendant to a mental health or residential care facility or release the defendant on bail.

Requires the court to commit a defendant not released on bail who is subject to an initial restoration period for further examination and treatment toward attaining competency to stand trial for a period of not more than 60 days for a misdemeanor charge and not more than 120 days for a felony charge.

Authorizes the court to appoint disinterested experts to reexamine the defendant if the court receives credible evidence indicating that the defendant has been restored to competency at any time after the defendant's incompetency trial.

Requires the court, after a reexamination of the defendant, to find the defendant competent to stand trial and proceed with a hearing if both parties agree that the defendant is competent to stand trial and the court concurs.

Requires the court to hold a hearing to determine whether the defendant has been restored to competency if any party fails to agree or if the court fails to concur that the defendant is competent to stand trial.

Provides that if the court holds a hearing, on the request of counsel for either party or the motion of the court, a jury must make the competency determination.

Provides that if after the hearing the defendant is again found to be incompetent to stand trial, the court must issue a new order as appropriate based on the defendant's current condition.

Authorizes the court to enter an order extending the initial restoration period for only one additional period of 60 days if the court determines that the defendant has not attained competency.

Requires the facility to which the defendant is released on bail to develop an individual program of treatment and assess and evaluate whether the defendant is likely to be restored to competency in the foreseeable future.

Requires the head of the facility or the provider of the outpatient treatment program to notify the applicable court that the restoration period is due to expire not later than the 15th day before the date on which the initial restoration period is to expire.

Requires the head of the facility or the provider of the outpatient treatment program to promptly notify the court when he or she believes the defendant has attained competency or is not likely to attain competency in the foreseeable future.

Allows the head of the facility or the provider of the outpatient treatment program to request an extension of 60 days with an explanation that must include a description of any evidence indicating a reduction in the severity of the defendant's symptoms or impairment.

Authorizes the court to grant an extension only if the court determines that the defendant has not attained competency and that an extension of the initial restoration period will likely enable the facility or program to restore the defendant to competency within the period of the extension.

Requires the court to make a determination with regard to the defendant's competency to stand trial based on the report filed and on other medical information or personal history information relating to the defendant.

Allows the court, for a defendant for whom a facility has prepared a continuity of care plan that requires the defendant to take psychoactive medications, after notice and after a hearing held not later than the 10th day after the motion to compel medication is filed, to authorize the medication to be administered to the defendant by reasonable force if necessary and allows a hearing to be conducted using an electronic broadcast system.

Procedures for Administrative Violations of Parole or Mandatory Supervision—H.B. 2735

by Representative Madden—Senate Sponsor: Senator Hinojosa

The pardons and paroles division (division) of TDCJ is authorized to issue an arrest warrant, also known as a blue warrant, for a parolee who is accused of a technical violation of parole or of committing a certain new offense. A parolee arrested under a blue warrant is held in a county jail pending a hearing to determine whether parole will be revoked, which leads to overcrowded conditions in county jails and an increase in operating costs for county jails. This bill:

Allows the division to issue to the person a summons requiring the person to appear for a hearing if the person is not a releasee who is on intensive supervision or superintensive supervision; an absconder; or determined by the division to be a threat to public safety.

Requires the division to issue to the person a summons requiring the person to appear for a hearing if the person is charged only with committing an administrative violation of release that is alleged to have been committed after the third anniversary of the date the person was released on parole or to mandatory supervision; is not serving a sentence for, and has not been previously convicted of offenses listed or described in the general provisions of the sex offender registration programs in the Code of Criminal Procedure; and is not a releasee with respect to whom a summons may not be issued.

Teleconferencing Systems in Criminal Proceedings—H.B. 2847

by Representative Madden—Senate Sponsor: Senator Whitmire

The use of video teleconferencing technology in legal proceedings in which an inmate is required to provide testimony would minimize the transportation of such an inmate to and from the legal proceedings. This bill:

Allows a person operating a video teleconferencing system to be present in a grand jury room while the grand jury is conducting proceedings.

Allows a peace officer summoned to testify before the grand jury to testify through the use of a closed circuit video teleconferencing system that provides an encrypted, simultaneous, compressed full motion video and interactive communication of image and sound between the peace officer, the attorney representing the state, and the grand jury.

Requires a peace officer testifying through the use of a closed circuit video teleconferencing system to affirm that no person other than a person in the grand jury room is capable of hearing the testimony and that the peace officer's testimony is not being recorded or preserved by any person at the location from which the peace officer is testifying.

Requires the testimony received from a peace officer through teleconferencing be recorded in the same manner as other testimony taken before the grand jury.

Requires the court reporter to record and preserve the communication until all appellate proceedings have been disposed of.

Allows any deposition or testimony of an inmate witness in a proceeding in the prosecution of a criminal offense who is required to testify as a witness to be conducted by a video teleconferencing system.

Expunction of Arrest Records and Files—H.B. 2889 [Vetoed]

by Representative Madden—Senate Sponsor: Senator Hinojosa

According to DPS, state law enforcement officers made over one million arrests in a recent year and in a small number of these arrests, prosecutors declined to pursue criminal charges. Criminal records, once maintained on paper in various government offices, are consolidated and publicly available for a small price on the Internet. This bill:

Provides that a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested declines to prosecute the offense and does not object to the court entering an order of expunction.

Creating the Offense of Continuing Trafficking of Persons—H.B. 3000

by Representative Thompson et al.—Senate Sponsor: Senator Van de Putte

In 2003, the State of Texas became one of the first states to criminalize human trafficking. This bill:

Provides that a person commits an offense of continuous trafficking of persons if, during a period that is 30 or more days in duration, the person engages two or more times in trafficking of persons.

Requires a jury to agree unanimously that the defendant, during a period of 30 or more days, engaged in trafficking of persons.

Provides that a defendant may not be charged with more than one count of trafficking of persons if all the conduct that constitutes an offense is alleged to have been committed against the same victim.

Establishes that an offense of continuous human trafficking is a first degree felony, punishable by imprisonment in TDCJ for life or for any term of not more than 99 years or less than 25 years.

Penalties for Repeat and Habitual Felony Offenders—H.B. 3384

by Representative Madden—Senate Sponsor: Senator Whitmire

The category of state jail felonies was created to punish the lowest-level felony offenders in an effort to reserve state prison beds for increased incarceration of the most dangerous felons. Amendments to the state jail statute have enhanced the punishment of state jail felonies to the more serious ranges of punishment associated with first, second, and third degree felonies and have classified more serious state jail offenses as aggravated offenses. This bill:

Establishes that a person convicted of a third degree felony who has previously been finally convicted of a felony other than a state jail felony shall be punished for a second degree felony.

Establishes that a person convicted of a second degree felony who has previously been finally convicted of a felony other than a state jail felony shall be punished for a first degree felony.

Establishes that a person convicted of a first degree felony who has previously been finally convicted of a felony other than a state jail felony shall be punished by imprisonment in TDCJ for life, or for any term of not more than 99 years or less than 15 years.

Provides that a previous conviction for a state jail felony may not be used for enhancement purposes.

Establishes that a person convicted for a state jail felony who has previously been finally convicted of two state jail felonies shall be punished for a third degree felony.

Establishes that a person convicted for a state jail felony who has previously been finally convicted of two felonies other than state jail felonies, in which the second previous offense occurred before the first previous offense became final, shall be punished for a second degree felony.

Establishes that a person convicted for a state jail felony who has previously been finally convicted of a felony other than a state jail felony shall be punished for a second degree felony.

Prosecution and Punishment for Breach of Computer Security—H.B. 3396

by Representative Hernandez Luna—Senate Sponsor: Senator Patrick

A breach of computer security offense is a Class B misdemeanor when there is no proof of actual monetary damages, but there is no enhanced punishment for committing this offense when monetary damages are incurred or evidenced. A breach of computer security may include obtaining personal identifiers from a computer system, which is often a precursor to the crime of identity theft, obtaining access to credit card sales logs or employment applications, and obtaining access to a governmental computer network. This bill:

Establishes that the offense of breach of computer security is a state jail felony if the defendant has been previously convicted two or more times or the computer, computer network, or computer system is owned by the government or a critical infrastructure facility.

Establishes that a person commits an offense of breach of computer security if a person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner with the intent to defraud, harm, alter, damage, or delete property.

Establishes that it is a state jail felony if a person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner with the intent to defraud, harm, alter, damage, or delete property and the aggregate amount involved is less than \$20,000; a third degree felony if the aggregate amount involved is \$20,000 or more but less than \$100,000; and a second degree felony if the aggregate amount involved is \$100,000 or more but less than \$200,000.

Establishes that it is a second degree felony if a person knowingly accesses a computer, computer network, or computer system if the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility or the person obtains the identifying information of another by accessing only one computer, computer network, or computer system.

Establishes that it is a first degree felony if a person knowingly accesses a computer, computer network, or computer system if the person obtains the identifying information of another by accessing more than one computer, computer network, or computer system.

Provides that it is a defense to prosecution if the person acted with the intent to facilitate a lawful seizure or search of, or lawful access to, a computer, computer network, or computer system for a legitimate law enforcement purpose.

Community Supervision and Corrections Department Contracts—H.B. 3691

by Representative Gallego—Senate Sponsor: Senator Carona

The Government Code does not currently require community supervision and corrections departments (departments) to contract with each other for services or facilities. This bill:

Requires the Texas Board of Criminal Justice (TBCJ) to adopt rules allowing departments to contract with one another for services or facilities or provide, in lieu of establishing a department, programs and services in a judicial district through a contract with a department established for another judicial district.

Requires TBCJ to require a department to submit each legislative appropriations request (LAR) to the board for approval before TDCJ submits the appropriations request to the Legislative Budget Board.

Requires TBCJ to consider the most recent report prepared by the community justice assistance division (CJAD) of TDCJ in deciding whether to approve an LAR request.

Requires CJAD to prepare and submit to TBCJ and TDCJ a report that contains a detailed summary of the programs and services provided by departments, including financial information and information concerning state aid and funding.

Requires a community justice council to submit a community justice plan that includes a description of the programs and services the department provides or intends to provide and an outline of the department's projected programmatic and budgetary needs, based on the programs and services the department provides or intends to provide.

Allows a department or a regional partnership of departments to submit a commitment reduction plan, which may contain a request for additional state funding.

Requires that a commitment reduction plan include a target number by which the county or counties served by the department or regional partnerships of departments will reduce the number of individuals committed to TDCJ by reducing the number of direct sentencing commitments and/or community supervision revocations.

Requires that a commitment reduction plan include a calculation of the savings to the state that will result from the county or counties reaching the target number; an explanation of the programs and services the department or regional partnership of departments intends to provide; a pledge to provide accurate data and to repay the state, not later than the 30th day after the last day of the state fiscal year in which the lump-sum award is made, a percentage of the lump sum received; and an agreement and plan for the receipt, division, and administration of any funding received.

Authorizes CJAD to award to the department or regional partnership of departments a one-time lump sum in an amount equal to 35 percent of the savings to the state.

Authorizes CJAD to award to the department or regional partnership of departments on a biennial basis, from the 65 percent of the savings to the state, 15 percent for reducing the percentage of persons supervised who commit a new felony while under supervision; five percent for increasing the percentage of persons supervised who are not delinquent in making any restitution payments; and five percent for increasing the percentage of persons who are gainfully employed.

Allows a department or regional partnership of departments to use funds to provide any program or service that a department is authorized to provide under other law, including implementing, administering, and supporting evidence-based community supervision strategies, electronic monitoring, substance abuse and mental health counseling and treatment, specialized community supervision caseloads, intermediate sanctions, victims' services, restitution collection, short-term incarceration in county jails, specialized courts, pretrial services and intervention programs, and work release and day reporting centers.

Requires CJAD to deduct from future state aid paid to a department, or from any incentive payments for which a department is otherwise eligible, an amount equal to the amount of any pledge that remains unpaid on the 31st day after the last day of the state fiscal year in which a lump-sum award is made.

Internet Crimes Against Children—H.B. 3746

by Representative Frullo et al.—Senate Sponsor: Senator Carona

Texas has three Internet Crimes Against Children (ICAC) task forces, working with the Office of the Attorney General (OAG) and having approximately 10 full-time staff among them. One of every three ICAC-related arrests results in the identification and rescue of a local child victim. This bill:

Creates the Internet crimes against children account (account) in the general revenue fund.

Establishes that the account consists of money transferred by the legislature directly to the account and gift and donations.

Requires that interest earned on the account be credited to the account and allows money in the account to be appropriated to support the administration and activities of an ICAC task force.

Requires OAG to assist persons obtaining administrative subpoenas to investigate and prosecute offenses that involve the Internet-based sexual exploitation of a minor.

Authorizes a prosecuting attorney or an officer of an ICAC task force to issue and cause to be served an administrative subpoena that requires the production of records or other documentation if the subpoena relates to an investigation of an offense that involves the sexual exploitation of a minor and there is reasonable cause to believe that an Internet or electronic service account has been used in the sexual exploitation or attempted sexual exploitation of the minor.

Provides that if a criminal case or proceeding does not result from the production of records or other documentation within a reasonable period, the prosecuting attorney or ICAC task force must destroy or return the records or documentation to the person who produced the records or documentation.

Provides that any information, records, or data reported or obtained under a subpoena is confidential and may not be disclosed to any other person unless the disclosure is made as part of a criminal case related to those materials.

Criminal and Civil Consequences of Human Trafficking and Victim Protections—S.B. 24

by Senator Van de Putte et al.—House Sponsor: Representative Thompson et al.

In Texas, the Houston and Dallas Innocence Lost operations run by the Federal Bureau of Investigation, the United States Department of Justice, and the National Center for Missing and Exploited Children rescued more than 109 children from traffickers in fiscal year 2010.

In 2009, the Texas Legislature created a statewide Human Trafficking Prevention Task Force (task force) within OAG to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes. This bill:

Defines a "child" as a person younger than 18 years of age.

Defines "forced labor or services" as labor or services, other than labor or services that constitute sexual conduct that are performed or provided by another person and obtained through an actor's use of force, fraud, or coercion.

Provides that a person commits an offense if the person knowingly traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct relating to prostitution; promotion of prostitution; aggravated promotion of prostitution; or compelling prostitution.

Provides that a person commits an offense if the person knowingly receives a benefit from participating in a venture that involves any prostitution-related activity or engages in sexual conduct relating to prostitution with a trafficked person; traffics a child with the intent that the trafficked child engage in forced labor or services; or receives a benefit from participating in a venture that involves forced labor or services.

Provides that a person commits an offense if the person knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, continuous sexual abuse of a young child or children; engages in indecency with a child, sexual assault, aggravated sexual assault, prostitution, promotion of prostitution, or aggravated promotion of prostitution; compels prostitution; compels sexual performance by a child; engages in employment harmful to children; possesses or promotes child pornography, or receives a benefit from participating in a venture that involves the activity; or engages in sexual conduct with a trafficked child.

Provides that if the victim of an offense of trafficking of a person and causing the victim to engage in or become the victim of continuous sexual abuse of a young child or children is the same victim as a victim of continuous sexual abuse of a young child or children, a defendant may not be convicted of the offense in the same criminal action unless the offense occurred outside the period in which the offense alleged was committed or is considered by the trier to be a lesser offense.

Allows a person who is a victim of continuous sexual abuse of a young child or children, indecency with a child, sexual assault, or aggravated sexual assault; a person who is a victim of trafficking of persons or compelling prostitution; a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim; or a prosecuting attorney acting on behalf of a person who is the victim to file an application for a protective order without regard to the relationship between the applicant and the alleged offender.

Provides that there is no limitation for felony indictments if a person traffics a child and by any means causes the trafficked child to engage in, or become the victim of continuous sexual abuse of a young child or children; commits indecency with a child, sexual assault, aggravated sexual assault, prostitution, promotion of prostitution, or aggravated promotion of prostitution or receives a benefit from participating in a venture that involves the activities or engages in sexual conduct with a trafficked child.

Provides that there is a 10-year limitation for felony indictments if a person knowingly commits an offense of trafficking another person with the intent that the trafficked person engage in forced labor or services; receives a benefit from participating in a venture that involves the activity, including receiving labor or services known to be forced labor or services; traffics another person and, through force, fraud, or coercion causes the trafficked person to engage in prostitution, promotion of prostitution, aggravated promotion of prostitution; receives benefit from participating in a venture that involves prostitution or engages in sexual conduct with a trafficked person; or compels prostitution of the victim.

Provides that there is a seven-year limitation for felony indictments if a person knowingly commits an offense of trafficking a child with the intent that the trafficked child engage in forced labor or services or receives a benefit from participating in a venture that involves the activity, including receiving labor or services the person knows are forced labor or services.

Provides that if the victim is younger than 17 years of age at the time of the offense, there is a 10-year limitation from the 18th birthday of the victim for felony indictments if a person knowingly commits an offense of trafficking a child with the intent that the trafficked child engage in forced labor or services or receives a benefit from participating in a venture that involves the activity, including receiving labor or services the person knows are forced labor or services; or compels prostitution of the victim.

Establishes that the venue for trafficking of persons, false imprisonment, and kidnapping is in the county in which the offense was committed or any county through, into, or out of which the person trafficked, falsely imprisoned, or kidnapped may have been taken.

Provides that a conviction of compelling prostitution and certain offenses of trafficking another person is supportable on the uncorroborated testimony of the victim of the sexual offense if the victim informed any person, other than the defendant, or the alleged offense within one year after the date on which the offense is alleged to have occurred if

the court determines that a child younger than 13 years of age would be unavailable to testify in the presence of the defendant about an offense of compelling prostitution.

Provides that hearsay statement of a child abuse victim provisions provided in the Code of Criminal Procedure apply for the offenses of compelling prostitution or trafficking of persons if the offense is committed against a child younger than 14 years of age of a person of disability.

Provides that the options regarding community supervision in the Code of Criminal Procedure do not apply to the offenses of compelling prostitution or trafficking of persons.

Provides that a person must bring suit for personal injury not later than five years after the day the cause of action accrues if the injury arises as a result of trafficking of persons or compelling prostitution.

Provides that a court may order involuntary termination of a parent-child relationship if the parent has been convicted of or placed on community supervision for being criminally responsible for the death or serious injury of a child as the result of trafficking of persons or compelling prostitution.

Includes in the definition of "abuse" the conduct that constitutes an offense of trafficking of persons; prostitution; compelling prostitution; or knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked.

Authorizes the court to find that a parent has subjected the child to aggravated circumstances if the parent has engaged in conduct against the child that would constitute an offense of compelling prostitution or trafficking of persons.

Provides that an inmate is not eligible to be considered for release to intensive supervision parole if the inmate is awaiting transfer to the institutional division, or serving sentence, for injury to a child or disabled individual or trafficking of persons.

Provides that an inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of compelling prostitution or trafficking of persons.

Provides that if the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of trafficking of persons or compelling prostitution.

Requires that a defendant be punished by imprisonment in TDCJ for life if the defendant is convicted of an offense of trafficking a child and by any means causing the trafficked child to engage in, or become the victim of continuous sexual abuse of a young child or children; indecency with a child; sexual assault; aggravated sexual assault; prostitution; promotion of prostitution; or aggravated promotion of prostitution or receives a benefit from participating in a venture that involves the activities or engages in sexual conduct with a trafficked child; indecency with a child; sexual assault; or aggravated sexual assault.

Establishes that an "act of sexual abuse" includes trafficking of persons or compelling prostitution.

Provides that a person commits an offense if the person causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode by acts or words, places the victim in any act that is a violation of trafficking of persons or compelling prostitution.

Provides that a person commits an offense if the person intentionally or knowingly by act or words places the victim in fear that any person will become the victim of an offense relating to trafficking of persons or that death, serious

bodily injury, or kidnapping will be imminently inflicted on any person or threatens to cause any person to become the victim of human trafficking or to cause the death, serious bodily injury, or kidnapping of any person.

Prosecution for Stalking—S.B. 82

by Senator Nelson—House Sponsor: Representative Gallego et al.

The offense of stalking is defined in the Penal Code as engaging in a "scheme or course of conduct," on more than one occasion, that the actor knows or reasonably believes will cause the victim fear of bodily injury to the victim or to the victim's family or of damage to the victim's property. A first stalking offense is a third degree felony and any repeat conviction is a second degree felony. This bill:

Provides that a person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that the actor knows or reasonably believes the other person will regard as threatening bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship.

Provides that a person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property and would cause a reasonable person to fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship.

Provides that the offense is a second degree felony if the actor has previously been convicted of stalking or of an offense under the laws of another state; the laws of a federally recognized Indian tribe; the laws of a territory of the United States; or federal law that contain elements that are substantially similar to the elements relating to stalking in this state.

Provides that the offense of stalking may be prosecuted in any county in which an element of the offense occurred.

Allows each party, in a prosecution of stalking, to offer testimony as to all relevant facts and circumstances that would aid in determining whether the actor's conduct would cause a reasonable person to experience a fear of stalking, bodily injury or death for himself or herself; bodily injury or death for a member of the person's family or household; or that an offense will be committed against the person's property.

Allows each party, in a prosecution of stalking, to offer testimony including the facts and circumstances surrounding any existing or previous relationship between the actor and the alleged victim, a member of the alleged victim's family or household, or an individual with whom the alleged victim has a dating relationship.

Protective Orders and Dating Violence—S.B. 116

by Senator Uresti—House Sponsor: Representative Castro

Currently, only a current or former spouse, boyfriend, or girlfriend is eligible to apply for a protective order against his or her partner or ex-partner. In the event of family violence, only members of the family or household can apply for a protective order against other members of the same family or household. This bill:

Defines "dating violence" to mean an act, other than a defensive measure to protect oneself, committed against a victim with whom the actor has or has had a dating relationship, or by an individual against another individual who is in a dating relationship with a third individual with whom the actor is or has been in a dating relationship or marriage,

that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault.

Provides that the Act be known as the Kristy Appleby Act.

Postconviction Forensic DNA Analysis—S.B. 122

by Senator Ellis—House Sponsor: Representative Gallego et al.

Under existing law, post-conviction DNA testing can be granted only if the evidence containing biological material was not previously subjected to DNA testing because DNA testing was not available, testing was available but not technologically capable of providing probative results, or was not tested through no fault of the convicted person, and should be tested in the interests of justice. This bill:

Defines "biological material" as an item that is in possession of the state and that contains blood, semen, hair, saliva, skin tissue or cells, fingernail scrapings, bone, bodily fluids, or other identifiable biological evidence that may be suitable for forensic DNA testing and includes the contents of a sexual assault evidence collection kit.

Requires the convicting court, if an analyzed sample meets the applicable requirements of state and federal submission policies, to order any unidentified DNA profile to be compared with the DNA profiles in the DNA database established by the FBI and the DNA database maintained by DPS.

Requires the convicting court, after examining the results of testing and any comparison of a DNA profile, to hold a hearing and make a finding as to whether, had the results been available during the trial of the offense, it is reasonably probably that the person would not have been convicted.

Eligibility for a Pardon—S.B. 144

by Senator West—House Sponsor: Representative Thompson et al.

Employers routinely use criminal background checks as a part of the employment screening process and many persons are denied employment and state licensure on the basis of a criminal conviction. Currently, persons who have successfully completed deferred adjudication have been placed into the same category even though technically they do not have a criminal conviction.

Neither Texas statute nor constitutional law empowers the Texas governor to pardon a deferred adjudication sentence. Records of a conviction are capable of being expunged should a person receive a pardon, but a person who has completed deferred adjudication is not eligible for a pardon. This bill:

Authorizes the governor, in all criminal cases, except treason and impeachment, after conviction or successful completion of a term of deferred adjudication community supervision, on the recommendation of the Texas Board of Pardons and Paroles (TBPP), to grant reprieves and commutations of punishments and pardons and remit fines and forfeitures.

Authorizes TBPP to recommend that the governor grant a pardon to a person who is placed on deferred adjudication community supervision and subsequently receives a discharge and dismissal and, on or after the 10th anniversary of the date of discharge and dismissal, submits a written request to TBPP for a recommendation.

Offenses Regarding Controlled Substances—S.B. 158

by Senator Williams—House Sponsors: Representatives Fletcher and Gallego

The diversion of prescription drugs often involves "doctor shopping," which is typically defined as actively seeking doctors who will prescribe certain types of medications, primarily opiates, depressants, and stimulants. Fifteen states currently have legislation that specifically addresses the diversion of prescription drugs. This bill:

Provides that a registrant, dispenser, or an employee whose possession of the controlled substance is in the usual course of business or employment commits an offense if the person knowingly converts to the person's own use or benefit or to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment.

Provides that the offense of knowingly converting the controlled substances to the person's own use or benefit is a state jail felony and converting the controlled substance to the unlawful use or benefit of another person is a third degree felony.

Provides that a person commits an offense if the person, with intent to obtain a controlled substance or substances that is not medically necessary for the person, or an amount of a controlled substance or substances that is not medically necessary for the person, obtains or attempts to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact, including whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner.

Provides that the offense described above is a second degree felony if any controlled substance that is the subject of the offense is listed in Schedule I or II of the Controlled Substances Act and a third degree felony if any controlled substance that is the subject of the offense is listed in Schedule V.

Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit the unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of provisions regarding physicians in the Occupations Code.

Expunction of Arrest Records and Files—S.B. 167 [Vetoed]

by Senator West—House Sponsor: Representative Veasey et al.

Since 1989, 267 exonerations have taken place in the United States, including 42 in Texas. Although exonerated, the criminal records connected to the arrest, indictment, and conviction for the offense still exist. While an exoneration and pardon overturns the conviction and releases the subject from incarceration, an expunction is still needed to remove records of the offense from various national, state, and local criminal history records repositories.

The expunction process that must take place through the court system must be handled by a private attorney or a legal representative working on behalf of the exoneree and can involve significant court costs and attorney fees.

In 2007, the Texas Supreme Court ruled in *State v. Beam* that even a Class C misdemeanor that has been dismissed through completion of deferred adjudication cannot be expunged until the statute of limitations for the offense has expired. This bill:

Provides that a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if the person is

convicted and subsequently pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense.

Requires the trial court presiding over a case in which a defendant is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the defendant was convicted to enter an order of expunction for a person entitled to expunction not later than the 30th day after the date the court receives notice of the pardon or other grant of relief.

Requires the attorney for the state to prepare an expunction order for the court's signature and to notify TDCJ if the person is in the custody of TDCJ.

Requires the court to include in an expunction order a listing of each official, agency, or other entity of the state or political subdivision of the state and each private entity that there is reason to believe has any record or file that is subject to the order.

Requires the court to include in an expunction order the requirements that TDCJ must send to the court the documents delivered to TDCJ and that DPS and TDCJ must delete or redact from their public records all index references to the records and files that are subject to the expunction order.

Requires the court to retain all documents sent to the court until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

Continuing Education Requirements for Peace Officers—S.B. 244

by Senator Patrick—House Sponsor: Representative Fletcher

A succession plan within a police department often prepares the next generation of police chiefs and provides stability within a law enforcement agency when a sitting chief vacates the position. The Bill Blackwood Law Enforcement Management Institute of Texas (institute) is statutorily charged with police chief training. This bill:

Authorizes the institute to establish and offer a continuing education program for command staff for individuals who are second in command to police chiefs.

Requires the command staff continuing education program to satisfy the requirements for the police chief continuing education program provided in the Education Code.

Exempts a peace officer who is second in command to a police chief of a law enforcement agency and who attends the continuing education program for command staff from the other continuing education requirements.

Criminal Asset Forfeitures—S.B. 316

by Senator Whitmire—House Sponsor: Representative Gallego

Current law allows a district attorney to appear at a roadside search and obtain a waiver for property seized at the location before any court case or criminal charges have been filed. In 2010, a district judge and district attorney were convicted for abuse of assets acquired through the current asset forfeiture provisions. This bill:

Provides that a peace officer, including the peace officer who seizes the property, may not request, require, or in any manner induce any person, including a person who asserts an interest in or right to the property, to execute a document purporting to waive the person's interest in or rights to seized property.

Provides that, at any time before notice is filed, an attorney representing the state may not request, require, or in any manner induce any person, including a person who asserts an interest in or right to seized property, to execute a document purporting to waive the person's interest in or rights to the property.

Provides that any postjudgment interest from money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, that are deposited in an interest-bearing bank account shall be used for the same purpose as the principal.

Requires the attorney representing the state to enter into a local agreement with DPS, with respect to forfeited property seized in connection with a violation of the Texas Controlled Substance Act by a peace officer employed by DPS in which a default judgment is rendered in favor of the state.

Allows the attorney representing the state either to transfer forfeited property to DPS to maintain, repair, use, and operate for official purposes or allocate proceeds from the sale of forfeited property after the deduction of court costs of 40 percent to a special fund in DPS to be used solely for law enforcement purposes; 30 percent to a special fund in the county treasury for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposed of the attorney's office; and 30 percent to the general revenue fund.

Authorizes the attorney representing the state, with respect to forfeited property seized in connection with a violation of the Texas Controlled Substance Act by DPS concurrently with any other law enforcement agency, in which a default judgment is rendered in favor of the state, to allocate property or proceeds in accordance with a memorandum of understanding between the law enforcement agencies and the attorney representing the state.

Prohibits the head of a law enforcement agency or an attorney representing the state from using proceeds or seized property to contribute to a political campaign; pay expenses related to the training or education or any member of the judiciary; pay any travel expenses related to attendance at training or education seminars if the expenses violate generally applicable restrictions; purchase alcoholic beverages; make any expenditure not approved by the commissioners court or governing body of the municipality if the head of a law enforcement agency or attorney representing the state holds an elective office and the deadline for filing an application for a place on the ballot for reelection in the general primary has passed and the person did not file; or during the person's current term of office, the person was a candidate in a primary, general, or runoff election for reelection to that office and was not the prevailing candidate.

Prohibits the head of a law enforcement agency or an attorney representing the state from using proceeds or seized property to increase a salary, expense, or allowance for an employee of the law enforcement agency or attorney representing the state who is budgeted by the commissioners court or governing body of the municipality unless the commissioners court or governing body first approves the increase.

Allows the head of a law enforcement agency or an attorney representing the state to use as an official purpose of the agency or attorney proceeds or seized property to make a donation to an entity that assists in the detection, investigation, or prosecution of criminal offenses or instances of abuse; the provision of mental health, drug, or rehabilitation services, services for victims or witnesses of criminal offenses or instances of abuse, or the provision of training or education related to duties or services.

Requires all law enforcement agencies and attorneys representing the state to provide an annual audit accounting for all the seizure, forfeiture, receipt, and specific expenditure of all the proceeds and property, including a detailed report and explanation of all expenditures, including salaries and overtime pay, officer training, investigative equipment and supplies, and other items, to be delivered to the attorney general not later than the 60th day after the date on which the annual period that is the subject of the audit ends.

Requires the comptroller to perform the audit if a copy of the audit is not delivered to the attorney general within the time period required.

Authorizes the state auditor, at any time, to perform an audit or conduct an investigation related to seizure, forfeiture, receipt, and specific expenditure of proceeds and seized property.

Entitles the state auditor, at any time, to access any book, account, voucher, confidential or nonconfidential report, or other record of information, including electronic data, except that if the release of the applicable information is restricted under state or federal law, the state auditor may access the information only with the approval of a court or federal administrative agency.

Provides that if the results of a audit or investigation indicate that a law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision relating to the disposition of proceeds or seized property, the state auditor must promptly notify the attorney general for the purpose of initiating appropriate enforcement proceedings.

Requires the law enforcement agency or attorney representing the state to reimburse the state auditor for costs incurred by the state auditor in performing an audit.

Authorizes the attorney general, in the name of the state, to institute in a district court in Travis County or in a county served by the law enforcement agency or attorney representing the state a suit for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty if the results of an audit or investigation indicate that the law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision relating to the disposition of proceeds or seized property.

Requires the district court to grant the injunctive relief the facts may warrant, without requirement for bond.

Provides that a law enforcement agency or attorney representing the state who knowingly commits a violation is liable to the state for a civil penalty not to exceed \$100,000.

Requires the court, in determining an appropriate penalty for the violation, to consider any previous violations committed by the agency or attorney; the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation; the demonstrated good faith of the agency or attorney; and the amount necessary to deter future violation.

Allows OAG to recover reasonable expenses, court costs, investigative costs, and attorney's fees if the attorney general brings a suit and an injunction is granted or a civil penalty is imposed.

Requires a law enforcement agency or attorney representing the state ordered to pay a civil penalty, expense, cost, or fee to make the payment out of money available in any fund established by the agency or attorney for the purpose of administering proceeds or seized property.

Requires the attorney, if sufficient money is not available to make payment in full at the time the court enters an order requiring payment, to continue to make payments until the payment is made in full.

Requires that a civil penalty collected be deposited to the credit of the drug court account in the general revenue fund to help fund drug court programs.

Provides that a law enforcement agency or attorney representing the state is immune from liability if the agency or attorney reasonably relied on the advice, consent, or approval of an entity that conducts an audit of the agency or attorney or a written opinion of the attorney general relating to the statute or other provisions of law the agency or

attorney is alleged to have knowingly violated or a fact situation that is substantially similar to the fact situation in which the agency or attorney is involved.

Allows the district attorney for the 198th Judicial District to use proceeds from the sale of forfeited property, after the deduction of certain amounts, for the purposes of the office of the district attorney only on the approval of the commissioners court of each county in the judicial district or a regional review committee.

Employee's Transportation and Storage of Certain Firearms or Ammunition—S.B. 321

by Senators Hegar and Birdwell—House Sponsor: Representative Kleinschmidt

Under Texas law, a person who is lawfully authorized to possess firearms or ammunition may transport the firearms or ammunition in the person's motor vehicle. Many companies in Texas have no-firearms policies that extend beyond the actual workplace to employee parking lots. This bill:

Provides that a public or private employer may not prohibit an employee who holds a license to carry a concealed handgun, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Prohibits a person who holds a license to carry a concealed handgun, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from possessing a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law.

Prohibits firearms and/or ammunition from being stored in a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties.

Provides that permission for employees to transport and store firearms in privately owned motor vehicles does not apply to a school district; an open-enrollment charter school; a private school; property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; property owned or leased by chemical manufacturer or oil and gas refiner with an air authorization and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside a secured and restricted area that contains the physical plant; that is not open to the public; and the ingress into which is constantly monitored by security personnel.

Provides that an employer is not prohibited from allowing an employee who holds a license to carry a concealed handgun or who otherwise lawfully possesses a firearm from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business.

Provides that a public or private employer is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property, except in cases of gross negligence.

Provides that the presence of a firearm or ammunition on an employer's property does not by itself constitute a failure by the employer to provide a safe workplace.

Provides that a public or private employer does not have a duty to patrol, inspect, or secure any parking lot, parking garage, or other parking area the employer provides for employees or any privately owned motor vehicle located in a

parking lot, parking garage, or other parking area or to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Maintains the personal liability of an individual who causes harm or injury by using a firearm or ammunition; an individual who aids, assists, or encourages another individual to cause harm or injury by using a firearm or ammunition; or an employee who transports or stores a firearm or ammunition on the property of the employee's employer but who fails to comply with the requirements.

Synthetic Cannabinoids and the Texas Controlled Substances Act—S.B. 331

by Senator Shapiro et al.—House Sponsor: Representative Madden et al.

K2, also known as Spice, Genie, and Fire and Ice, is marketed as incense, but is actually a product that has been sprayed with a chemical compound that mimics the effects of THC, the active ingredient in marijuana, and is being smoked to produce intoxicating effects. K2 is legal and is often sold at gas stations, smoke shops, and on the Internet. According to the Texas Poison Center Network, there were 555 K2-related calls in 2010. This bill:

Includes any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids to Penalty Group 2 of the Texas Controlled Substances Act.

Provides that a person does not commit certain offenses under the Texas Controlled Substance Act if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce tetrahydrocannabinols or their derivatives into the human body, for use in a federally approved therapeutic research program.

Provides that a person commits an offense if the person knowingly possesses a controlled substance in Penalty Group 2, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice.

Provides that an offense is a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, two ounces or less; a Class A misdemeanor if the amount is four ounces or less, but more than two ounces; a state jail felony if the amount is five pounds or less, but more than four ounces; a third degree felony if the amount is 50 pounds or less, but more than five pounds; a second degree felony if the amount is 2,000 pounds or less but more than 50 pounds; and punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than five years, and a fine not to exceed \$50,000, if the amount is more than 2,000 pounds.

Requires the judge, on conviction of a state jail felony, to suspend the imposition of the sentence and place the defendant on community supervision, with some exceptions.

Provides that the judge may not place a defendant who possessed more than five abuse units of a controlled substance, possessed more than one pound of the controlled substance, or possessed more than one pound of marijuana on community supervision.

Statistical Information on the Prosecution of Certain Offenses—S.B. 364

by Senator Ogden—House Sponsor: Representative Brown

Currently, DPS and OCA collect certain information regarding driving under the influence (DUI) arrests and final dispositions of DUI cases. This bill:

Requires DPS to compile and maintain statistical information on the prosecution of offenses relating to the operating of a motor vehicle while intoxicated, including the number of arrests; the number of arrests resulting in release with no charges; the number of charges resulting in a plea of not guilty and a trial; the number of charges resulting in a plea of guilty or nolo contendere; the number of charges resulting in a conviction of the offense charged in the original information, indictment, complaint, or other charging instrument; the number of charges resulting in a conviction of an offense other than the offense charged in the original information, indictment, complaint, or other charging instrument; and the number of charges resulting in a dismissal.

Requires each law enforcement agency that enforces intoxication and alcoholic beverage offenses and each appropriate prosecuting attorney's office and court in this state to report the information necessary for DPS to compile the required information.

Requires DPS to identify law enforcement agencies, prosecuting attorney's office, and courts that fail to timely report or that report incomplete information to DPS.

Requires DPS to submit to the legislature not later than February 15 of each year a report of the statistical information compiled for the preceding calendar year, including a list of the law enforcement agencies, prosecuting attorney's office, and courts identified by DPS as failing to properly report.

Murder of a Child as a Capital Offense—S.B. 377

by Senators Huffman and Patrick—House Sponsor: Representative Riddle et al.

The Texas Penal Code provides that the murder of a child under the age of six is a charge of capital murder. Most states classify capital murder of a child as the murder of a person under the age of 12. This bill:

Provides that a person commits an offense or capital murder if the person intentionally or knowingly causes the death of an individual under 10, rather than six, years of age.

Creation of an Offense of Sending Sexually Explicit Text Messages—S.B. 407

by Senator Watson—House Sponsors: Representatives Craddick and Gallego

The act of sending a sexually explicit text message, commonly known as "sexting," may currently be prosecuted under adult pornography laws, which can lead to felony convictions and possible registration under the sex offender registration program. This bill:

Provides that it is a defense to prosecution that the prohibited record, document, or visual material was destroyed within a reasonable amount of time after receipt of the material from another minor.

Provides that it is a defense to prosecution that the actor is a law enforcement officer or a school administrator who possesses the visual material in good faith solely as a result of an allegation of a violation; allowed other law enforcement or school administrative personnel to access the material only as appropriate based on the allegation; and took reasonable steps to destroy the material within an appropriate period following the allegation.

Provides that a person who is a minor commits an offense if the person intentionally or knowingly by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material; or possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.

Provides that the offense is a Class C misdemeanor, except that the offense is a Class B misdemeanor if it is shown that the actor promoted the visual material with intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or has previously been convicted one time for knowingly by electronic means promoting to another minor visual material depicting a minor, including the actor, engaging in sexual conduct; a Class A misdemeanor if it is shown that the actor has previously been convicted one or more times of promoting the visual material with intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or convicted two or more times of any related offense.

Provides that the offense is a Class B misdemeanor if it is shown that the actor has previously been convicted one time of any related offense or a Class A misdemeanor if it is shown that the actor has previously been convicted two or more times.

Provides that it is an affirmative defense to prosecution that the visual material depicted only the actor or another minor who is not more than two years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense or who was the spouse of the actor at the time of the offense and was promoted or received only to or from the actor and the other minor.

Provides that it is an affirmative defense to prosecution that the actor did not produce or solicit the visual material; possessed the visual material only after receiving the material from another minor; and destroyed the visual material within a reasonable amount of time after receiving the material from another minor.

Establishes that conduct that violates the electronic transmission of certain visual material depicting a minor in the Penal Code is conduct indicating a need for supervision.

Requires the judge of a county court to take the defendant's plea in open court and issue a summons to compel the defendant's parent to be present during the taking of the defendant's plea and all other proceedings relating to the case.

Authorizes the court, if the court finds that a defendant has committed an offense, to enter an order requiring the defendant to attend and successfully complete an educational program.

Requires the court that enters an order to attend an educational program to require the defendant or the defendant's parent to pay the cost of attending an educational program if the court determines that the defendant or the defendant's parent is financially able to make payment.

Prohibits the court from making available or allowing to be made available for copying or dissemination to the public property or material the promotion or possession of the prohibited visual material.

Requires the court to allow discovery of the promotion or possession of the prohibited visual material.

Allows a person to apply to the court in which the person was convicted to have the conviction expunged on or after the person's 17th birthday if the person was convicted of not more than one offense while the person was a child or the person was convicted only once of an offense of electronic transmission of certain visual material depicting a minor in the Penal Code.

Requires the court to order that the conviction, all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, be expunged from the person's record if the court finds that the person was not convicted of any other offense while the person was a child and was not found to have engaged in conduct indicating a need for supervision while the person was a child.

Requires the Texas School Safety Center, in consultation with OAG, to develop programs for use by school districts that address possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct and other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including negative effects on relationships, loss of educational and employment opportunities, and possible removal from certain school programs or extracurricular activities; the unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including search and replication capabilities and a potentially worldwide audience, the prevention of, identification of, responses to, and reporting of incidents of bullying, and the connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

Requires each school district to annually provide or make available information on the programs to parents and students in a grade level the district considers appropriate and make the information available by any means the district considers appropriate.

Expunction of Records and Files Relating to a Person's Arrest—S.B. 462

by Senator West—House Sponsors: Representatives Veasey and Gallego

The Code of Criminal Procedure provides that a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files related to the arrest expunged if the person is tried for the offense for which the person was arrested and is acquitted by the trial court, or is convicted and subsequently pardoned. This bill:

Provides that a person is entitled to have all records and files relating to the arrest expunged if the person has been released and the charge has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision, unless the offense is a Class C misdemeanor, provided that regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment charging the person with the commission of a misdemeanor offense or felony offense has not been presented against the person at any time following the arrest, and at least 180 days have elapsed from the date of the arrest if the arrest was for a Class C misdemeanor; at least one year has elapsed from the date of arrest if the arrest was for a Class B or Class A misdemeanor; or the attorney representing the state certifies that the arrest records and files are not needed for use in any criminal investigation or prosecution; or if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was void or prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.

Provides that a person may not expunge records and files relating to an arrest that occurs pursuant to a warrant issued for violation of community supervision.

Provides that a person who intentionally or knowingly absconds from the jurisdiction after being released on bail following an arrest is not eligible for an expunction of the records and files relating to that arrest.

Authorizes the court, if the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense, to provide in its expunction order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

Requires the court to provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of any person who becomes entitled to an expunction of those records and files for a certain period of time, but without the certification of the prosecuting attorney.

Punishment for Offense of Evading Arrest—S.B. 496

by Senator Fraser—House Sponsor: Representative Hilderbran et al.

Evading arrest by use of a watercraft carries a maximum penalty of a Class A misdemeanor, while evading arrest by use of a motor vehicle is a state jail felony offense. The Texas Parks and Wildlife Department reported 17 instances of evading arrest through use of a watercraft within the state's waterways in the last two years. This bill:

Provides that it is a state jail felony if the actor uses a vehicle or watercraft while the actor is in flight and the actor has not been previously convicted and a third degree felony if the actor uses a vehicle or watercraft while the actor is in flight and the actor has been previously convicted.

Standards for Sexual Assault Training Programs and Nurse Examiners—S.B. 533

by Senator Davis—House Sponsor: Representative Gallego

The attorney general has the authority to adopt rules establishing minimum standards for the certification of a sexual assault advocate training program and for a sexual assault nurse examiner. Certifications for both entities is valid for two years, but the attorney general does not explicitly have the authority to adopt rules establishing minimum standards for certification renewal upon expiration of the two-year period. This bill:

Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault training program and the renewal of that certification by the program.

Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner and the renewal of that certification by the nurse examiner.

Employment Records for Law Enforcement Officers—S.B. 545

by Senator Seliger—House Sponsor: Representative Driver

If the employment of a licensee of TCLEOSE is terminated by a law enforcement agency, the head of the agency is required to submit an employee termination report to TCLEOSE and to the licensee within a certain time period. The licensee may request within a certain time period that the report be corrected and the form is confidential and not subject to disclosure under the state's open records law, except in certain circumstances. This bill:

Requires the head of the law enforcement agency to submit an employee termination report to TCLEOSE and the license holder not later than the seventh business day after the date the license holder resigns, retires, is terminated, or separates from the agency and exhausts all administrative appeals available to the license holder, if applicable.

Provides that a person who is the subject of an employment termination report maintained by TCLEOSE may contest information contained in the report by submitting a written petition on a form prescribed by TCLEOSE for a correction of the report not later than the 30th day after the date the person receives a copy of the report.

Requires TCLEOSE, on receipt of the petition, to refer the petition to the State Office of Administrative Hearings (SOAH).

Provides that a proceeding to contest information in an employment termination report is a contested case according to administrative procedures of the Government Code.

Authorizes TCLEOSE to assess an administrative penalty against an agency head who fails to make a correction to an employment termination report following an order by SOAH after all appeals available to the agency head have been exhausted.

Provides that all information submitted to TCLEOSE is confidential and is not subject to disclosure as public information unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

Provides that information submitted in an employment termination report is subject to subpoena only in a judicial proceeding.

Execution of Lawful Process by County Jailers—S.B. 604

by Senator Rodriguez—House Sponsor: Representative Naomi Gonzalez et al.

Currently, peace officers are the only individuals authorized to serve or execute subpoenas, attachments, and warrants. When it is necessary to serve or execute writs, subpoenas, and attachments on individuals confined to a detention facility, peace officers must be called to perform the ministerial duty of serving or delivering the warrant on an inmate. This bill:

Authorizes a licensed jailer who has successfully completed a training program to execute lawful process issued to the jailer by any magistrate or court on a person confined in the jail at which the jailer is employed.

Offense of Escape From Custody by a Person Lawfully Detained—S.B. 844

by Senator Patrick—House Sponsor: Representative Hunter et al.

It is an offense to escape from custody when under arrest for, charged with, or convicted of an offense. A peace officer has the authority to lawfully detain a person based on reasonable suspicion that the person has committed an offense, but if the person escapes while being lawfully detained, there is little legal basis for charging that person with an offense of escape from custody. This bill:

Provides that a person commits an offense if the person escapes from custody when the person is under arrest for, lawfully detained for, charged with, or convicted of an offense.

Provides that it is a third degree felony if the actor is confined or lawfully detained in a secure correctional facility or law enforcement facility or is committed to or lawfully detained in a secure correctional facility.

Verification of Incarceration and Liability on a Bail Bond—S.B. 877

by Senator Hinojosa—House Sponsor: Representative Gallego

When a bail bond is written to obtain the release of a defendant from custody, the surety may end its liability on the bond if the principal is rearrested for another offense. It is sometimes not possible to place a hold or to get a warrant in a timely manner for the principal before he or she is released from other jurisdictions. This bill:

Provides that a surety may before forfeiture relieve the surety of the surety's undertaking by delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in federal custody, in the custody of any state, or in any county of this state.

Requires the sheriff of the county in which the prosecution is pending, on receipt of an affidavit, to verify whether the accused is incarcerated as stated in the affidavit and notify the magistrate before which the prosecution is pending of the verification.

Requires the sheriff to place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated.

Requires the magistrate before which the prosecution is pending to direct the clerk of the court to issue a *capias* for the arrest of the accused, unless a warrant has been issued for the accused's arrest and remains outstanding or the issuance of a *capias* would otherwise be unnecessary for the purpose of taking the accused into custody.

Requires that the affidavit be filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court and delivered to the office of the prosecuting attorney.

Provides that a surety is liable for all reasonable and necessary expenses incurred in returning the accused into custody of the sheriff of the county in which the prosecution is pending.

Pretrial Intervention by Community Supervision and Corrections Department—S.B. 880

by Senator Whitmire—House Sponsor: Representative Madden

The Government Code authorizes a community supervision and corrections department (CSCD) to operate programs for the supervision and rehabilitation of persons in pretrial intervention programs, including testing for controlled substances and supervision for up to two years and to use money deposited in the special fund of the county treasury only for the same purposes for which state aid may be used. This bill:

Authorizes a CSCD to operate programs for the supervision of persons released on bail; the supervision of persons subject to a court order requiring the installation of a motor vehicle ignition interlock device on each vehicle owned or operated by the person or granting an occupational driver's license; and the supervision of persons ordered by the court to submit to supervision of, or to receive services from a CSCD.

Authorizes CSCD programs to include reasonable conditions related to the purpose of the program, including testing for controlled substances, unless the conditions conflict with more specific provisions of another law.

Authorizes a CSCD to assess a reasonable administrative fee of not less than \$25 or more than \$60 per month on an individual who participates in a program operated by the CSCD or receives services from the CSCD and who is not paying a monthly fee for community supervision.

Filing of Records of Persons Released on Personal Bond—S.B. 882

by Senator Whitmire—House Sponsor: Representative Madden et al.

The Code of Criminal Procedure authorizes counties to create personal bond pretrial release offices to facilitate judges in releasing individuals from jail and requires certain monthly reports to be posted in the county clerk's office. This bill:

Requires a personal bond pretrial release office to file a copy of the record in the office of the clerk of the county court in any county served by the office.

Penalty for Theft of an Automated Teller Machine—S.B. 887

by Senator Carona—House Sponsor: Representative Riddle et al.

Automated teller machine (ATM) theft is a relatively new crime that is increasing in frequency. The theft of an ATM typically involves more than one person because it is a labor intensive offense. Due to the manner in which this crime is committed, the perpetrator or perpetrators may often be charged with criminal mischief due to significant property damage as well as the theft of the money from the ATM machine. This bill:

Provides that the offense of theft is a second degree felony if the value of the property stolen is less than \$200,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine.

Defines "automated teller machine."

Conditions for Granting Occupational Licenses—S.B. 953

by Senator Whitmire—House Sponsor: Representative Madden

A judge granting a person an occupational driver's license must order the person to attend an alcoholic counseling program or install an ignition interlock device on the person's motor vehicle. If a judge orders counseling, or an interlock device, the court is responsible for ensuring compliance with the order. This bill:

Authorizes the court granting an occupational license to require as a condition of the license that the person submit to periodic testing for alcohol or controlled substances, to be conducted by an entity specified by the court, if the person's license has been suspended for failure to pass a test for intoxication, implied consent, or as a result of the person's conviction of an offense involving the operation of a motor vehicle while intoxicated.

Authorizes the court granting an occupational license to order the person receiving the license to submit to supervision by the local CSCD to verify compliance with the conditions specified by the order granting the license and to pay a monthly administrative fee.

Authorizes the court to order the supervision to continue until the end of a period of suspension of the person's driver's license.

Authorizes the court, for good cause, to modify or terminate supervision before the end of the period of license suspension.

Requires that an order granting an occupational license specify that the person is restricted to the operation of a motor vehicle equipped with an ignition interlock device, if applicable, and that the person must submit to periodic testing for alcohol or controlled substances, if applicable.

Authorizes a CSCD to assess a reasonable administrative fee of not less than \$25 or more than \$60 per month on an individual who participates in a department program or receives department services and who is not paying a monthly fee for community supervision.

Notice of Plea Bargain Agreement in Certain Criminal Cases—S.B. 1010

by Senator Huffman—House Sponsor: Representative Workman et al.

Currently, there is no requirement that any notice be given to a victim prior to the acceptance of a plea deal by a defendant in criminal cases. This bill:

Requires the court to admonish the defendant that the recommendation of the prosecuting attorney as to punishment is not binding on the court and inform the defendant whether the court will follow or reject the agreement in open court and before any finding on the plea.

Allows the defendant, should the court reject the agreement, to withdraw the defendant's plea of guilty or nolo contendere.

Requires the trial court to admonish the defendant that if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant's attorney, the trial court must give its permission to the defendant before the defendant may pursue an appeal.

Requires the court, before accepting a plea of guilty or a plea of nolo contendere, to inquire as to whether the attorney representing the state has given notice of the existence and terms of any plea bargain agreement to the victim, guardian of a victim, or close relative of a deceased victim, as applicable to the case.

Requires the attorney representing the state, as far as reasonably practical, to give to the victim, guardian of a victim, or close relative of a deceased victim notice of the existence and terms of any plea bargain agreement to be presented to the court.

Requires the judge, before accepting the plea bargain agreement, to ask whether a victim impact statement has been returned, for a copy of the statement, and whether the attorney representing the state has given the victim, guardian of a victim, or close relative of a deceased victim notice of the existence and terms of the plea bargain agreement.

Prosecution of the Offense of Theft of Services—S.B. 1024

by Senator Rodriguez—House Sponsor: Representative Eddie Rodriguez

Theft of wages occurs when employers fail to pay workers their promised wages. Theft of wages is more prevalent in certain industries, such as construction. This bill:

Provides that a person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation, the actor intentionally or knowingly secures performance of the service by agreeing to provide compensation and after the service is rendered, fails to make full payment after receiving notice demanding payment.

Provides that if the compensation is or was to be paid on a periodic basis, the intent to avoid payment for a service may be formed at any time during or before a pay period and the partial payment of wages alone is not sufficient evidence to negate the actor's intent to avoid payment for a service.

Community Supervision and Corrections Department Funds and Plans—S.B. 1055

by Senator Carona—House Sponsor: Representatives Madden and White

The community justice assistance division (CJAD) of TDCJ requires each CSCD to prepare and submit a community justice plan. This bill:

Provides that a community justice council includes, among other members, the director of the CSCD.

Requires TBCJ to require the CSCD to submit LARs, accompanied by the most recent report prepared by CJAD, to TBCJ for approval before the CSCD submits the LAR to the Legislative Budget Board (LBB).

Requires TBCJ, in deciding whether to approve an LAR, to consider the most recent report prepared by CJAD.

Requires the CSCD to include in each LAR the information contained in the most recent report prepared by CJAD.

Requires CJAD to prepare a report that contains a detailed summary of the programs and services provided by departments, including all financial information relating to the program and services described in each community justice plan and information concerning the amount of state aid and funding that is not state aid to support each program or service provided by the CSCD.

Requires CJAD, as soon as practicable, to submit the report to TBCJ and the executive director of TDCJ.

Requires CJAD to submit the report to LBB not later than the date on which TDCJ's LAR must be submitted.

Requires the community justice council to submit a revised plan to the division each even-numbered year not later than March 1.

Requires that a community justice plan include a description of the programs and services the CSCD provides or intends to provide, including a separate description of any programs or services the CSCD intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the CSCD and an outline of the CSCD's projected programmatic and budgetary needs, based on the programs and services the CSCD both provides and intends to provide.

Provides that a CSCD or a regional partnership of CSCDs may submit a commitment reduction plan to CJAD not later than the 60th day after the date on which the time for gubernatorial action on the state budget has expired.

Provides that a commitment reduction plan may contain a request for additional state funding.

Requires that a commitment reduction plan contain a target number by which the county or counties served by the CSCD or regional partnership of CSCDs will reduce the number of individuals committed in the preceding fiscal year from the county or counties to TDCJ by reducing the number of direct sentencing commitments, community supervision revocations, or direct sentencing commitments and community supervision revocations; a calculation of the savings to the state that will result from the county or counties reaching the target number; an explanation of the programs and services to be provided using any funding received; a pledge to provide accurate data to CJAD at the time and manner required; a pledge to repay, not later than the 30th day after the last day of the state fiscal year in which the lump-sum award is made, a percentage of the lump sum that is equal to the percentage by which the county or counties fail to reach the target number; and an agreement and plan for the receipt, division, and administration of funding if the commitment reduction plan is submitted by a regional partnership.

Authorizes CJAD to award to the CSCD or regional partnership, if CJAD is satisfied that the commitment reduction plan is feasible and would achieve desirable outcomes, a one-time lump sum in an amount equal to 35 percent of the savings to the state and, on a biennial basis, from the 65 percent of the savings to the state that remains after payment of the lump sum, incentive payments for the CSCD or regional partnership's performance in the two years immediately preceding the payment.

Provides that a CSCD or regional partnership may use funds received to provide any program or service that a CSCD is authorized to provide under law.

Prosecution of Misdemeanor Cases in Justice of the Peace Courts—S.B. 1200

by Senator Patrick—House Sponsor: Representative Fletcher et al.

Justice of the peace courts have unequal workloads with some courts addressing a backlog of cases and others addressing very few cases. This is particularly true of justice courts in Harris County. This bill:

Expands the venues in which a misdemeanor case must be tried to include a justice court in any precinct in the county that is adjacent to the precinct in which the offense was committed, if the offense was committed in a county with a population of 3.3 million or more.

Certain Prescriptions for Controlled Substances—S.B. 1273

by Senator Williams—House Sponsor: Representative Hamilton et al.

The Texas Prescription Program was created by the Texas Legislature in 1982 to monitor Schedule II controlled substance prescriptions. The program was expanded in 2008 to include the monitoring of Schedule III through Schedule V controlled substance prescriptions. An interagency council was created in 2009, composed of the director of DPS and the executive directors of the Texas State Board of Pharmacy (TSBP) and the Texas Medical Board (TMB) or their designees. The interagency council was charged to develop a transition plan for the orderly transfer from DPS to TSBP of certain records and regulatory functions relating to dispensing controlled substances by prescription. The council met numerous times throughout 2010 and submitted its findings and recommendations to the legislature in 2011. This bill:

Requires a person to provide DPS with the person's federal Drug Enforcement Administration (DEA) number not later than the 45th day after the director issues a registration to the person.

Requires a person who administers or dispenses a controlled substance, if the person is not a prescribing practitioner or pharmacist, to promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and DEA number issued for prescribing a controlled substance.

Removes the requirement that a prescription for a controlled substance show the practitioner's DPS registration number.

Requires each dispensing pharmacist to send all information required by the director of DPS to the director by electronic transfer or another approved form not later than the seventh, rather than the 15th, day after the date the prescription is completely filled.

Requires that each official prescription form used to prescribe a Schedule II controlled substance contain the DEA number issued for prescribing a controlled substance in Texas.

Prohibits the DPS director from permitting any person to have access to information submitted to the director except an investigator for the TMB, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or TSBP.

Alabama-Coushatta Indian Tribe Peace Officers—S.B. 1378

by Senator Nichols—House Sponsors: Representatives Otto and White

The Alabama-Coushatta Indian Tribe is a sovereign entity with its own defined boundaries. This bill:

Authorizes the tribal council of the Alabama-Coushatta Indian Tribe to employ and commission peace officers for the purpose of enforcing state law within the boundaries of the tribe's reservation.

Provides that a peace officer commissioned by the tribal council is vested with all the powers, privileges, and immunities of peace officers; may arrest without a warrant any person who violates a law of the state; and may enforce all traffic laws on streets and highways.

Provides that outside the boundaries of the tribe's reservation, a peace officer commissioned by the tribal council is vested with all the powers, privileges, and immunities of peace officers and may arrest any person who violates any law of the state if the peace officer is summoned by another law enforcement agency to provide assistance or is assisting another law enforcement agency.

Requires any officer assigned to duty and commissioned by the tribal council to take and file the oath required of peace officers; execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer will fairly, impartially, and faithfully perform the duties required of the officer by law.

Requires any person commissioned as a peace officer by the tribal council to meet the minimum standards required of peace officers relating to competence, reliability, education, training, morality, and physical and mental health and meet all standards for certification as a peace officer by TCLEOSE.

Establishes that peace officers commissioned by the tribal council are not entitled to state benefits normally provided by the state to a peace officer.

Evading Arrest With Tire Deflation Devices—S.B. 1416

by Senator Hinojosa—House Sponsor: Representative Gallego et al.

Law enforcement officials in South Texas, when in pursuit of suspects, have had to deal with the suspects throwing "tire deflation devices" at law enforcement officials' vehicles and then evading arrest as a result. This bill:

Defines a "tire deflation device" as a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires.

Excludes a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction that is clearly and visibly posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

Provides that a person commits an offense if the person intentionally and knowingly possesses, manufactures, transports, repairs, or sells a tire deflation device.

Provides that it is an affirmative defense to prosecution that the actor's conduct was incidental to dealing with a tire deflation device solely as an antique or curio or was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an armed forces or national guard organization, a governmental law enforcement agency, or a correctional facility.

Establishes that the offense of intentionally and knowingly possessing, manufacturing, transporting, repairing, or selling an explosive weapon, machine gun, short-barrel firearm, a firearm silencer, armor-piercing ammunition, a chemical dispensing device, or a zip gun is third degree felony.

Establishes that the offense of intentionally and knowingly possessing, manufacturing, transporting, repairing, or selling a tire deflation device is a state jail felony.

Establishes that the offense of intentionally and knowingly possessing, manufacturing, transporting, repairing, or selling a switchblade knife or knuckles is a Class A misdemeanor.

Establishes that an offense of evading arrest or detention is a state jail felony if the actor has been previously convicted; a third degree felony if the actor uses a vehicle or tire deflation device while in flight; and a second degree felony if another suffers serious bodily injury as a direct result of the actor's use of a tire deflation device while in flight.

Entering a Plea While Confined in a Penal Institution—S.B. 1522

by Senator Hinojosa—House Sponsor: Representative Madden et al.

The Code of Criminal Procedure requires a court to accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made by closed circuit video teleconferencing or in writing. This bill:

Requires a court to accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made in writing, including a writing delivered by United States mail or secure electronic or facsimile transmission.

Requires the court, before accepting a plea submitted in writing, to verify that the person submitting the plea is the defendant named in the information or indictment or a person with legal authority to act for the defendant named in the information or indictment.

Registration of Peace Officers as Private Security Officers—S.B. 1600

by Senator Whitmire—House Sponsors: Representatives Phil King and Sid Miller

Statutes relating to the exemption of certain law enforcement personnel from the Private Security Act were originally written to exempt full-time paid police officers from certain private security licensing requirement because full-time paid police officers are required to have more training and experience than certain commissioned private security personnel and are licensed in Texas through TCLEOSE. Amendments to the statutes have resulted in the law being interpreted to require full-time police officers to be registered in the same manner as a security guard in order to perform certain functions. This bill:

Exempts a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer is employed in an employee-employer relationship or employed on an individual contractual basis by a company licensed under the private security chapter and law enforcement personnel provisions of the Occupations Code.

Procedures Regarding Biological Evidence—S.B. 1616*by Senator West—House Sponsor: Representative Gallego et al.*

Texas leads the nation in the number of persons found to have been wrongfully convicted of, imprisoned for, and later executed for crimes, primarily based on biological evidence. The state does not currently have uniform standards or established best practices regarding the collection, retention, and storage of these biological materials. This bill:

Defines biological evidence as the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingernail scraping, bone, bodily fluids, or any other identifiable biological material that was collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used to establish the identity of the person committing the offense or engaging in the conduct constituting the offense or exclude a person from the group of persons who could have committed the offense or engaged in the conduct constituting the offense.

Establishes that provisions regarding evidence containing biological material in the Code of Criminal Procedure apply to a governmental or public entity or an individual, including a law enforcement agency, prosecutor's office, court, public hospital, or crime laboratory, that is charged with the collection, storage, preservation, analysis, or retrieval of biological evidence.

Requires individuals charged with handling biological evidence to ensure that biological evidence collected pursuant to an investigation or prosecution of a felony offense or conduct constituting a felony is retained and preserved for not less than 40 years, or until the applicable statute of limitations has expired, if there is an unapprehended actor associated with the offense or in a case in which a defendant has been convicted, placed on deferred adjudication community supervision or adjudicated as having engaged in delinquent conduct and there are no additional unapprehended actors associated with the offense.

Requires individuals charged with handling biological evidence to ensure that biological evidence collected pursuant to an investigation or prosecution of a felony offense or conduct constituting a felony is retained and preserved until the defendant completes the defendant's term of community supervision, including deferred adjudication community supervision; the defendant dies, completes the defendant's sentence, or is released on parole, mandatory supervision, or juvenile probation; or the defendant completes the defendant's term of juvenile probation, including a term of community supervision upon transfer of supervision to a criminal court.

Allows the attorney representing the state, clerk, or other officer in possession of biological evidence to destroy the evidence only if the attorney, clerk, or officer by mail notifies the defendant, the last attorney of record for the defendant, and the convicting court and a written objection is not received within 91 days.

Requires DPS to adopt standards and rules authorizing a county with a population of less than 100,000 to ensure the preservation of biological evidence by promptly delivering the evidence to DPS for storage.

Requires DPS to adopt standards and rules relating to individuals charged with handling biological evidence that specify the manner of collection, storage, preservation, and retrieval of biological evidence, consistent with best practices.

Allows individuals charged with handling biological evidence to solicit and accept gifts, grants, donation, and contributions to support the collection, storage, preservation, retrieval, and destruction of biological evidence.

Sexual Assault DNA Evidence—S.B. 1636

by Senator Davis—House Sponsor: Representative McClendon

The use of rape testing kits is a means to gather significant evidence in the investigation and prosecution of sexual assault cases. Certain large municipalities in Texas have stored rape kits dating back to the 1990s that have been submitted for testing and numerous matches have been found in CODIS. These matches have allowed authorities to solve several cases and identify and file cases on some serial rapists. This bill:

Provides that the failure of DPS to expunge a DNA record may not serve as the sole grounds for a court in a criminal proceeding to exclude evidence based on or derived from the contents of that record.

Defines "accredited crime laboratory," "advocate," and other terms.

Provides that evidence may not be released unless a signed written consent to release the evidence is obtained.

Requires medical, law enforcement, DPS, and laboratory personnel who handle sexual assault evidence to maintain the chain of custody of the evidence from the time the evidence is collected until the time the evidence is destroyed.

Requires a law enforcement agency to submit sexual assault evidence to a public accredited crime laboratory for analysis within 30 days after the evidence was received.

Requires a person who submits sexual assault evidence to a public accredited crime laboratory to provide signed written certification with each submission.

Requires a public accredited crime laboratory, if sufficient personnel and resources are available, to complete its analysis of sexual assault evidence as soon as practicable.

Allows DPS and other applicable public accredited crime laboratories to contract with private accredited crime laboratories as appropriate to perform analyses.

Provides that the failure of a law enforcement agency to submit sexual assault evidence within the period required does not affect the authority of the agency to submit the evidence to an accredited crime laboratory for analysis or an accredited crime laboratory to analyze the evidence or provide results of the analysis to appropriate persons.

Requires DPS to compare the DNA profile obtained from the biological evidence with DNA profiles maintained in state databases, if the amount and quality of the analyzed sample meet the requirements of the state database comparison policies and the CODIS DNA database established by the FBI, if the amount and quality of the analyzed sample meet the requirements of the bureau's CODIS comparison policies.

Provides that a communication, a record, or evidence that is confidential may be disclosed in court or in an administrative proceeding if the survivor or other appropriate person consents in writing to the disclosure.

Provides that a communication, a record, or evidence that is confidential may be disclosed to medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication, record, or evidence is relevant or if there is a probability of immediate mental or emotional injury to the survivor and to a person authorized to receive the disclosure as a result of written consent.

Provides that a communication, a record, or evidence that is confidential may not be disclosed to a parent or legal guardian of a survivor who is a minor if an advocate or a sexual assault program knows or has reason to believe that the parent or legal guardian of the survivor is a suspect in the sexual assault of the survivor.

Requires consent for the release of confidential information other than evidence contained in an evidence collection kit to be in writing and signed by the survivor, a parent or legal guardian if the survivor is a minor, a legal guardian if the survivor has been adjudicated incompetent to manage the survivor's personal affairs, an attorney ad litem appointed for the survivor, or a personal representative if the survivor is deceased.

Requires consent for the release of evidence contained in an evidence collection kit to be in writing and signed by the survivor, if the survivor is 14 years of age or older or the survivor's personal representative, if the survivor is deceased.

Provides that written consent signed by an incapacitated person, as defined by the Texas Probate Code, is effective regardless of whether the incapacitated person's guardian, guardian ad litem, or other legal agent signs the release.

Authorizes the investigating law enforcement officer to sign the release if the incapacitated person is unable to provide a signature and the guardian, guardian at litem, or other legal agent is unavailable to sign the release.

Provides that consent for release applies only to evidence contained in an evidence collection kit and does not affect the confidentiality of any other confidential information.

Requires that the written consent specify the evidence covered by the release, the reason or purpose for the release, and the person to whom the evidence is to be released.

Allows a survivor or other person authorized to consent to withdraw consent to the release of evidence by submitting a written notice of withdrawal to the person or program to which consent was provided.

Establishes that withdrawal of consent does not affect evidence disclosed before the date written notice of the withdrawal was received.

Provides that a person who receives confidential evidence may not disclose the evidence except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the evidence.

Requires a person to disclose a communication, record, or evidence that is confidential for use in a criminal investigation or proceeding in response to a subpoena issued in accordance with law.

Provides that a person commits an offense that is a Class C misdemeanor if the person intentionally or knowingly discloses a communication, record, or evidence that is confidential, except as provided by this bill.

Requires DPS to develop procedures for the transfer and preservation of evidence collected to a crime laboratory or other suitable location designated by DPS.

Requires the receiving entity to preserve the evidence until the earlier of the second anniversary of the date the evidence was collected or the date on which written consent to release the evidence is obtained.

Requires the legislature to determine and appropriate the necessary amount from the criminal justice planning account to the criminal justice division of the governor's office for reimbursement in the form of grants to DPS and other law enforcement agencies for expenses incurred in performing duties related to DNA records and sexual assault prevention and crisis services provided in the Government Code.

Includes provisions and timelines relating to the implementation of this bill.

Prosecution of Fraud or Theft Involving Medicaid or Medicare Benefits—S.B. 1680

by Senator Ellis—House Sponsor: Representative Murphy

A common scheme in Medicare and Medicaid fraud involves an insider who bills hundreds or thousands of recipient accounts at small dollar amounts, totaling millions of dollars. To prosecute these crimes, the state must call each of the recipients as witnesses at trial to testify that no product or service was ever ordered, delivered, or received. As a result, the number of witnesses in Medicare and Medicaid fraud cases cause trials to be lengthened by weeks. This bill:

Establishes that the attorney representing the state is not required to prove by direct evidence that each Medicaid or Medicare recipient did not consent or effectively consent to a transaction in question in trials involving an allegation of a continuing scheme of fraud or theft that involves Medicaid or Medicare benefits.

Provides that a deposition of a witness duly taken before an examining trial or a jury of inquest and reduced to writing or recorded and then certified, provided that the defendant and the defendant's attorney were present when that testimony was taken and that the defendant had the privilege afforded of cross-examining the witness, or taken at any prior trial of the defendant for the same offense, may be used by either the state or the defendant in the trial when the witness is a Medicaid or Medicare recipient or a caregiver or guardian of the recipient, and the recipient's Medicaid or Medicare account was charged for a product or service that was not provided or rendered to the recipient.

Defines terms relevant to depositions of Medicaid or Medicare recipients or caregivers.

Authorizes the court to order the attorney representing the state to take the deposition of a recipient or caregiver who is the alleged victim of or witness to an offense constituting fraud or theft that involves Medicaid or Medicare benefits.

Authorizes the court to order the attorney representing the state to take the deposition by video recording.

Authorizes the court to allow a party to offer the entire video recording into evidence without requiring the jury to view the entire video recording during the trial.

Allows the attorney representing the state and the defendant or the defendant's attorney, by written agreement filed with the court, to extend the deadline for the taking of the deposition.

Requires the court to grant any request by the attorney representing the state to extend the deadline for the taking of the deposition if a reason for the request is the unavailability, health, or well-being of the recipient or caregiver.

Establishes that the taking of the deposition is governed by the Texas Rules of Civil Procedure, except when in conflict with applicable court rules.

Allows the attorney representing the state and the defendant or the defendant's attorney to agree to modify the rules applicable to the deposition by written agreement filed with the court before the taking of the deposition.

Requires the court, if a defendant is unavailable to attend a deposition because the defendant is confined in a correctional facility, to issue orders or warrants necessary to secure the defendant's presence at the deposition.

Requires the sheriff of the county in which a deposition is to be taken to provide a secure location for the taking of the deposition and sufficient law enforcement personnel to ensure that the deposition is taken safely.

Requires the defendant's attorney, if a defendant is unavailable to attend a deposition for any reason other than confinement in a correctional facility, to request a continuance from the court.

Allows the court to grant the continuance if the defendant or the defendant's attorney demonstrates good cause for the continuance and that the request is not brought for the purpose of delay or avoidance.

Prohibits depositions taken in criminal actions from being read unless oath be made that the witness is a Medicaid or Medicare recipient or a caregiver or guardian of the recipient, and the recipient's Medicaid or Medicare account was charged for a product or service that was not provided or rendered to the recipient.

Appointment of Counsel and Appellate Proceedings—S.B. 1681

by Senator Ellis—House Sponsor: Representative Thompson et al.

The Fair Defense Act requires judges in each county to adopt countywide procedures for appointing attorneys for indigent defendants arrested for or charged with felonies or misdemeanors punishable by confinement. Courts are required to appoint attorneys from a public appointment list using a system of rotation, an alternative appointment program, or a public defender. Some jurisdictions believe that Fair Defense Act requirements apply to attorney appointments for appeals and probation revocation hearings, while other jurisdictions do not. This bill:

Requires the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county to adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable confinement or a felony.

Requires a court, when a court determines for purposes of criminal proceeding that a defendant charged with or appealing a conviction of a felony or misdemeanor punishable by confinement is indigent or that the interests of justice require representation of a defendant in the proceeding, to appoint one or more practicing attorneys to represent the defendant.

Authorizes judges of the county courts, statutory county courts, and district courts trying misdemeanor cases in the county to establish, if determined by the judges to be appropriate, more than one appointment list graduated according to the degree of seriousness of the offense, the attorneys' qualifications, and whether representation will be provided in trial court proceedings, appellate proceedings, or both.

Provides that attorneys appointed by a countywide alternative program for appointing counsel for indigent defendants in misdemeanor cases punishable by confinement and felony cases meet specified objective qualifications for that representation, which may be graduated according to the degree of seriousness of the offense and whether representation will be provided in trial court proceedings, appellate proceedings, or both.

Authorizes a court or the courts designee required to appoint an attorney to represent a defendant accused or convicted of a felony to appoint an attorney from any county located in the court's administrative judicial region.

Requires an appointed attorney to represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record and, before withdrawing as counsel for the defendant after the trial or entry of a plea of guilty, advise the defendant of the defendant's right to file a motion for new trial and notice of appeal; if the defendant wishes to pursue either or both remedies, assist the defendant in requesting the prompt appointment of replacement counsel; and if replacement counsel is not appointed promptly and the defendant wishes to pursue an appeal, file a timely notice of appeal.

Requires, without any unnecessary delay, but not later than 48 hours after the person is arrested, the arresting officer or person with custody of the arrested person to take the arrested person before the judge who ordered the arrest for

the alleged violation of a condition of community supervision or, if the judge is unavailable, before a magistrate of the county in which the person was arrested.

Requires the judge or magistrate to perform all appropriate duties and allows the judge or magistrate to exercise all appropriate powers with respect to an arrest for a new criminal offense, except that only the judge who ordered the arrest for the alleged violation may authorize the person's release on bail.

Allows the arrested person to be taken before the judge or magistrate by means of an electronic broadcast system.

Requires the judge who ordered the arrest for the alleged violation of a condition of community supervision, if the defendant has not been released on bail, to cause the defendant to be brought before the judge for a hearing on the alleged violation within 20 days, and provides that after a hearing without a jury, the judge may either continue, extend, modify, or revoke the community supervision.

Requires the court to appoint counsel for an indigent defendant in accordance with procedures for appointing counsel found in the Code of Criminal Procedure.

Group Health Benefits Coverage for Persons Wrongfully Imprisoned—S.B. 1686

by Senator Ellis—House Sponsor: Representative Anchia

Chapter 103 (Compensation to Persons Wrongfully Imprisoned), Title 5 (Governmental Liability), Civil Practice and Remedies Code, provides that a person is entitled to compensation if the person has served in whole or in part a sentence in prison under the laws of this state and the person has received a full pardon on the basis of innocence for the crime for which the person was sentenced or has been granted relief on the basis of actual innocence of the crime for which the person was sentenced. This bill:

Provides that a person entitled to compensation is also eligible to obtain group health benefit plan coverage through TDCJ as if the person were an employee of the department.

Establishes that the person's spouse or other dependent or family member is not entitled to group health benefit plan coverage.

Provides that coverage may be obtained for a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully imprisoned, including any period during which the claimant was released on parole or to mandatory supervision or required to register.

Requires a person who elects to obtain coverage to pay a monthly contribution equal to the total amount of the monthly contributions for that coverage for an employee of TDCJ.

Provides that annuity payments may be reduced by an amount necessary to make the payments required and requires that amount to be transferred to an appropriate account as provided by the comptroller by rule to fund that coverage.

Requires a claimant to apply for coverage through TDCJ to file with the TDCJ an application for coverage and a statement by the comptroller that the comptroller has determined the claimant to be eligible for compensation.

Provides identical conforming language in the Civil Practice and Remedies Code and in the Insurance Code where applicable.

Turnover of Licensed Jailers—S.B. 1687

by Senator Ellis—House Sponsor: Representative Coleman

County jails submit information on a yearly basis to the Texas Commission on Jail Standards (TCJS) in order for TCJS to provide oversight and guidance on jail operations and conditions. Jails also provide other information on a monthly basis to give TCJS a sense of current jail operations, including information on the number and type of prisoners and the jail's capacity. Turnover rates for jailers may be a key indicator in developing operational problems, but current law does not require jails to report information on jailer turnover. This bill:

Requires each jail under TCJS jurisdiction to submit, on or before the fifth day of each month, a report containing the number of licensed jailers who left employment at the jail during the previous month.

Information Provided Regarding Testing for Intoxication—S.B. 1787

by Senator Patrick—House Sponsor: Representative Martinez Fischer

Arresting officers may apply for a warrant authorizing the taking of a blood specimen from a person suspected of committing an offense related to intoxication. This bill:

Requires a peace officer, before requesting a person to submit to the taking of a specimen, to inform the person orally and in writing that if the person refuses to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from the person.

Pardons for Persons Who Complete Deferred Adjudication Community Service—S.J.R. 9

by Senator West—House Sponsors: Representatives Thompson and Gallego

In Texas, a person who has committed a violent act of crime or an offense that has significant financial implications to the victim, theoretically, still has the ability for that crime to be pardoned by the governor. But for a lesser offense, for which the courts have ruled that the public is best served by an offer of deferred adjudication to the defendant, the governor has no power by statute or constitutionally to pardon that crime. This resolution:

Requires a proposed constitutional amendment to be submitted to the voters to:

Authorize the governor, in all criminal cases, except treason and impeachment, after conviction or successful completion of a term of deferred adjudication community supervision, on the recommendation of the Texas Board of Pardons and Paroles, to grant reprieves and commutations of punishments and pardons and to remit fines and forfeitures.

Community Service and Tutoring for Juvenile Defendants—H.B. 350

by Representative Walle—Senate Sponsor: Senator Van de Putte

Juveniles in Texas may receive class C misdemeanor citations for behavior ranging from disrupting class to truancy. A juvenile and the juvenile's parents must appear in court to resolve a class C misdemeanor by paying applicable fees and fines. Judges have the discretion to offer community service to juveniles, but there is no statutory language that expressly authorizes academic enrichment in satisfaction of a fine. This bill:

Authorizes a judge to require a defendant younger than 17 years of age who is assessed a fine or costs for a class C misdemeanor to discharge all or part of the fine or costs by performing community service or attending a tutoring program that is satisfactory to the court.

Authorizes a local juvenile probation department or a court-related services office to provide the administrative and other services necessary for supervision.

Certain Counties Not Required to Operate JJAEP—H.B. 592

by Representative Pitts—Senate Sponsor: Senator Birdwell

Under current law, a county with a population greater than 125,000 must establish a juvenile justice alternative education program (JJAEP) to offer an alternative form of discipline and education for a juvenile expelled from a public school district. This bill:

Provides that a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county has a population of 180,000 or less; is adjacent to two counties, each of which has a population of more than 1.7 million; and has seven or more school districts located wholly within the county's boundaries.

Juvenile Records of Adjudication and Misdemeanor Convictions—H.B. 961

by Representative Turner—Senate Sponsor: Senator Hinojosa

Juvenile cases are subject to automatic restriction when the individual turns 21 years of age and the case did not include violent or habitual felony conduct or result in the minor being certified for trial in criminal court. Texas courts may also order the sealing of records for someone who is at least 21 years of age and has not been convicted of a felony after reaching age 17. This bill:

Provides that all records relating to children convicted of fine-only misdemeanors may not be disclosed to the public and may be open to inspection only by judges or court staff, a criminal justice agency for a criminal justice purpose, the Department of Public Safety of the State of Texas (DPS), an attorney for a party to the proceeding, the child defendant, or the defendant's parents or guardians.

Requires DPS to certify to the juvenile probation department that the records relating to a person's juvenile case are subject to automatic restriction of access if the person is at least 17, rather than 21, years of age; the juvenile case did not include violent or habitual felony conduct; and the juvenile case was not certified for trial in criminal court under the Section 54.02 (Repealing Clause), Code of Criminal Procedure.

Defense for the Sale, Distribution, or Display of Harmful Material to a Minor—H.B. 1344

by Representative Burkett—Senate Sponsor: Senator Deuell

Certain offenses exist regarding the sale, distribution, or exhibition of material that is harmful to a minor, and it is a defense to prosecution that the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse. This defense creates conflict if a parent shows the parent's child pornography over the objection of the other parent. This bill:

Provides that it is an affirmative defense to prosecution that the sale, distribution, or exhibition of harmful material to a minor was by a person having scientific, educational, governmental, or other similar justification.

Establishes that it is not a defense to prosecution that the sale, distribution, or exhibition of harmful material was to a minor who was accompanied by a consenting parent, guardian, or spouse.

Provides that it is a defense to prosecution that the actor was the spouse of the minor at the time of the offense.

Notification Requirements and School District Discretion Over Admissions—H.B. 1907

by Representative Madden—Senate Sponsor: Senator Whitmire

The superintendent of a school district must be notified when a student enrolled in the district is arrested for certain offenses, but there is no specific requirement for the notification of a school district employee who has direct supervisory responsibility for the student. This bill:

Requires the law enforcement agency to orally notify the superintendent in the school district in which the student is enrolled of an arrest or referral within 24 hours after the arrest is made, or before the next school day.

Requires the superintendent to immediately notify all instructional and support personnel who have responsibility for supervision of the student.

Requires the law enforcement agency to mail written notification, marked "PERSONAL and CONFIDENTIAL" to the superintendent within seven days after the date the oral notice is given.

Requires the superintendent to send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice.

Requires a parole, probation, or community supervision office; a juvenile probation department; the pardons and parole division of the Texas Department of Criminal Justice (TDCJ); and the Texas Youth Commission (TYC), having jurisdiction over a student who transfers from a school and later returned to a school or school district other than the one the student enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred, to notify the superintendent within 24 hours of learning of the student's transfer or re-enrollment, or before the next school day.

Requires the superintendent of the school district to which the student transfers or is returned to notify all instructional and support personnel who have regular contact with the student within 24 hours, or before the next school day.

Requires that oral or written notice include all pertinent details of the offense or conduct, including details of any assaultive behavior or other violence, weapons used in the commission of the offense or conduct, or weapons possessed during the commission of the offense or conduct.

Requires a school district board of trustees, if the board learns of a failure by the superintendent of the district or a district principal to provide a notice, to report the failure to the State Board for Educator Certification.

Requires the superintendent or principal, if he or she learns of a failure of a law enforcement agency to provide a notification, to report the failure to notify to the Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

Requires a juvenile court judge, if he or she learns of a failure by the office of the prosecuting attorney to provide a notification, to report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

Requires the supervisor of a parole, probation, or community supervision department officer, if the supervisor learns of a failure by the officer to provide a notification, to report the failure to notify to the director of the entity that employs the officer.

Requires the principal of a private school in which the student is enrolled to send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice required by this Act.

Orders, Fines, and Costs and Juvenile Defendants—H.B. 1964

by Representative Villarreal—Senate Sponsor: Senator Van de Putte

Chapter 45 (Justice and Municipal Courts), Code of Criminal Procedure, establishes procedures for processing cases that come within the criminal jurisdiction of the justice courts and municipal courts. This bill:

Authorizes a justice or judge to require a defendant to discharge all or part of the fine or costs by performing community service and authorizes a defendant to discharge an obligation to perform community service by paying at any time the fine and costs assessed.

Requires the justice or judge to specify the number of hours of service the defendant is required to perform and prohibits the justice or judge from ordering more than 200 hours of service.

Authorizes the justice or judge to order the defendant to perform community service work only for a governmental entity or nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community.

Prohibits a justice or judge from ordering a defendant to perform more than 16 hours of community service per week unless the justice or judge determines that requiring additional hours of work does not cause a hardship on the defendant or the defendant's family.

Provides that a sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant if the act or failure to act was performed pursuant to court order, and was not intentional, willfully, or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Authorizes a community supervision and corrections department or a court-related services office to provide the administrative and other services necessary for supervision of a defendant required to perform community service.

Authorizes the judge, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs, to allow the defendant to enter into an agreement for payment of those costs in installments during

the defendant's period of probation; require an eligible defendant to discharge all or part of those costs by performing community service; or take any combination of actions.

Conduct Requiring the Need for Supervision and Sealing of Records—H.B. 2015

by Representative Thompson—Senate Sponsor: Senator Van de Putte

The Human Trafficking Prevention Task Force is required to prepare a report containing certain information on the nature and extent of human trafficking in Texas, including information relating to youths arrested for engaging in prostitution.

Some states have been diverting juveniles accused of engaging in prostitution from the juvenile justice system by treating the youths as trafficked persons and designating related behavior as conduct indicating a need for supervision. This bill:

Includes the conduct of prostitution as conduct indicating a need for supervision in the Family Code.

Requires a juvenile court to seal records concerning a child found to have engaged in conduct indicating a need for supervision or taken into custody to determine whether the child engaged in conduct indicating a need for supervision.

Authorizes a prosecuting attorney or juvenile probation department to maintain until a child's 17th birthday a separate record of the child's name and date of birth and the date on which the child's records are sealed, if the child's records are sealed.

Requires the prosecuting attorney or juvenile probation department to send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records.

Teen Dating Violence Court Program—H.B. 2496

by Representative Naomi Gonzalez et al.—Senate Sponsor: Senator Carona

Often the only means of legal remediation in cases of dating violence between teenagers is through punitive actions against the offender that can involve community service, probation, or incarceration. This bill:

Defines a "teen dating violence court program" as a program that includes a 12-week program designed to educate children who engage in dating violence and encourage them to refrain from engaging in that conduct; a dedicated teen victim advocate who assists teen victims by offering referrals to additional services, providing counseling and safety planning, and explaining the juvenile justice system; a court-employed resource coordinator; one judge who presides over all of the cases in the jurisdiction; and an attorney in the district or county attorney's office who is assigned to the program.

Authorizes the juvenile court, on the recommendation of the prosecuting attorney, to defer adjudication proceedings for not more than 180 days if the child is a first offender who is alleged to have engaged in the conduct of a misdemeanor violation involving dating violence.

Requires a child for whom adjudication proceedings are deferred to complete the teen dating violence court program within the deferral period and appear in court once a month for monitoring purposes.

Requires the court to dismiss the case with prejudice when the child has successfully completed the teen dating violence court program.

Authorizes the court to require a child who participates in a teen dating violence court program to pay fees not to exceed \$10 each to cover the costs of administration and operation of the program.

Requires the court to track the number of children ordered to participate in the teen dating violence court program, the percentage of victims meeting with the teen victim advocate, and the compliance rate of the children ordered to participate in the program.

Office of Inspector General of the Texas Youth Commission—H.B. 2633

by Representative Madden—Senate Sponsor: Senator Whitmire

The office of the inspector general of TYC prepares and delivers reports regarding the office's investigations and operations to the executive commissioner of TYC, among others. This bill:

Adds the TYC board to the entities to whom reports prepared by the office of the inspector general must be delivered.

Requires the TYC board to select a commissioned peace officer as chief inspector general who will operate directly under the authority of the board and who may only be discharged by the board for cause.

"911 Lifeline" for Minors—H.B. 3474

by Representative Gallego—Senate Sponsor: Senator Watson

Teenagers who engage in underage drinking may be hesitant to seek help for themselves or for their peers in dangerous situations where someone may have alcohol poisoning for fear of getting themselves or their peers in trouble.

Nine states have implemented a limited immunity law to encourage a minor to seek help in an alcohol-related emergency by granting limited immunity from criminal penalties to those involved in seeking help. These laws are commonly referred to as a "911 Lifeline." This bill:

Provides limited immunity for possession and consumption of alcohol to a minor who requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person; was the first person to make a request for medical assistance; and remained on the scene until the medical assistance arrived and cooperated with medical assistance and law enforcement personnel.

Requires the judge, if the defendant possessed and consumed alcohol at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol, to require the defendant to perform community service for not less than 20 or more than 40 hours and to attend an alcohol awareness program and order DPS to suspend or deny issuance of a driver's license or permit for 180 days.

Requires that community service ordered by the judge to be related to education about or prevention of misuse of alcohol if the programs or services providing that education are available in the community in which the court is located.

Gifts and Donations to the McLennan County Juvenile Board—H.B. 3829

by Representative Charles Anderson—Senate Sponsor: Senator Birdwell

The McLennan County Juvenile Board (board), consisting of the county judge, the county court at law judges, and the district judges in the county, has expressed an interest in accepting gifts, grants, and other donations for the purpose of offering more programs to juveniles under the supervision of probation officers. This bill:

Allows the board to establish and administer a local enrichment of juvenile services program consistent with policies adopted by the juvenile board.

Allows the board to accept a gift, grant, or donation from a public or private source for any lawful purpose, including support of a local enrichment of juvenile service program.

Requires the board to place a donation of money in a special fund that is subject to all reporting or procedural requirements of the county auditor and audited annually by the county auditor.

Provides that the juvenile board is not required to establish or adopt a budget for expenditures under the special fund and allows the fund to be used only to pay expenses of and related to programs, services, and items approved by the juvenile board.

Minimum Standards for Juvenile Case Managers—S.B. 61

by Senator Zaffirini—House Sponsor: Representative Walle

Under Article 45.056, Title 1, Code of Criminal Procedure, governmental entities are authorized to appoint case managers to provide services in cases involving juvenile offenders. Current Texas law does not establish any minimum standards regarding for juvenile case managers (JCMs). This bill:

Authorizes a governing body to pay the salary and benefits of a JCM.

Authorizes the court or a governing body of the governmental entity employing a JCM to pay the costs of training, travel, office supplies, and other necessary expenses relating to the position of the JCM from the juvenile case manager fund.

Requires the governing body to adopt reasonable rules for JCMs that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and certain specified training regarding the role and duties of a JCM.

Requires the employing court or governmental entity to implement such rules.

Requires the commissioners court or governing body of the municipality that administers a JCM fund to periodically review JCMs to ensure the implementation of the rules.

Authorizes a JCM fund to be used to finance training, travel expenses, office supplies, and other necessary expenses relating to the position of a JCM.

Prohibits a JCM fund from being used to supplement the income of an employee whose primary role is not that of a JCM.

Juvenile Case Managers—S.B. 209

by Senator Zaffirini—House Sponsor: Representative Walle

Under Article 45.056, Title 1, Code of Criminal Procedure, governmental entities are authorized to employ a JCM to provide services in cases involving juvenile offenders before a court. The current law does not specify the interaction between the employing judge and the JCM. This bill:

Authorizes a county or justice court on approval of a municipality to employ one or more JCMs to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases.

Strikes the requirement that JCMs be full-time.

Requires a JCM to timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge, any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

Requires the judge who is assigned to the case to consult with the JCM who is supervising the case regarding certain aspects of the case.

Provides that these provisions regarding reporting and consultation do not apply to a part-time judge or to a county judge of a county court that has one or more appointed full-time magistrates to hear certain Education Code violations.

Detention of Juvenile Offenders—S.B. 1209

by Senator Whitmire—House Sponsor: Representative Marquez et al.

Upon certification of a juvenile for prosecution as an adult in a criminal court, the youth is treated as an adult and transferred to the adult county jail for incarceration pending the completion of his or her adult proceeding and trial. Due to the requirements that a child must be separated by sight and sound from adults detained in the same building, the juvenile may often be housed in conditions that are not conducive to his or her rehabilitation and may be harmful to the juvenile's mental health. This bill:

Provides that a person who has been transferred for prosecution in criminal court and is under 17 years of age is considered a child.

Establishes that the provisions in the Family Code regarding place and condition of detention apply to a person who has been transferred to a criminal court for prosecution and is at least 17 years of age.

Provides that a child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime unless the juvenile court orders the detention of the child in a certified juvenile detention facility.

Requires a juvenile board to establish a policy that specifies whether a person who has been transferred for criminal prosecution and is younger than 17 years of age may be detained in a juvenile facility pending trial.

Authorizes the juvenile court, on transfer of a person for criminal proceedings, to order a person to be detained in a certified juvenile detention facility pending trial or until the criminal court enters an order.

Authorizes the judge of the criminal court having jurisdiction over the child to order the child to be transferred to another facility and treated as an adult.

Requires trial courts to regularly and frequently set hearings and trials of pending matters, giving preference to, among other matters, hearings and trials of criminal actions against children who are detained after transfer for prosecution in criminal court.

Authorizing Certain Courts to Access Juvenile Justice Information System—S.B. 1241

by Senator West—House Sponsor: Representative Jim Jackson

Counties with over two million in population are authorized to appoint magistrates to hear truancy cases. These truancy court magistrates are not currently authorized to access the state juvenile justice information system to check on the history of the children they are working with. This bill:

Authorizes a county, justice, or municipal court justice and municipal exercising jurisdiction over a juvenile under Section 54.021 (County, Justice, or Municipal Court: Truancy), Family Code, to access to the state juvenile justice information system.

Operation of Kimble, McCulloch, Mason, and Menard Counties Juvenile Boards—S.B. 1322

by Senator Fraser—House Sponsor: Representative Hilderbran

The juvenile boards of Kimble, McCulloch, Mason, and Menard counties have been operating jointly as the 198th Judicial District Juvenile Probation Department for many years. This bill:

Authorizes by statute the juvenile boards of Kimble, McCulloch, Mason, and Menard counties to operate together.

Authorizes such juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

Possession and Consumption of Alcoholic Beverages by a Minor—S.B. 1331

by Senator Watson—House Sponsor: Representative Gallego

Practices of hazing involving the abuse of alcohol can result in alcohol poisoning. Minors engaged in such activities are often hesitant to call for help in fear of the legal ramifications. This bill:

Provides that provisions regarding the consumption and/or possession of alcohol by a minor in the Alcoholic Beverage Code do not apply to a minor who requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person; was the first person to make a request for medical assistance; and if the minor requested emergency medical assistance, remained on the scene and cooperated with medical assistance and law enforcement personnel.

Requires a judge who places a defendant on community supervision, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol and in addition to any other condition imposed by the judge, to require the defendant to perform community service for not less than 20 or more than 40 hours and attend an approved alcohol awareness program; and order DPS to suspend or deny the issuance of the driver's license or permit for 180 days.

Provides that community service ordered under the Alcoholic Beverage Code is in addition to any community service ordered under the community supervision provisions of the Code of Criminal Procedure.

Requires that community service be related to education about or prevention of misuse of alcohol if programs or services are available in the community in which the court is located.

Authorizes the court to order community service that the court considers appropriate for rehabilitative purposes if programs and services relating to education and prevention of misuse of alcohol are not available.

Sentence of Life Without Parole for Certain Sexual Offenses—H.B. 3

by Representative Thompson et al.—Senate Sponsor: Senator Huffman

Sexual assault and aggravated sexual assault are reportedly among the crimes with the highest recidivism rates. This bill:

Establishes that an inmate serving a sentence for aggravated sexual assault is not eligible for release on parole if the inmate serving a sentence has previously been finally convicted of continuous sexual abuse of a young child or children.

Local Law Enforcement Authority and the Sex Offender Registration Program—H.B. 530

by Representative Shelton—Senate Sponsor: Senator Davis

The chief of police of a municipality and the sheriff of a county are defined as the "local law enforcement authority" in handling matters relating to the registration and tracking of sex offenders in the respective municipality or county. Allowing other experienced staff to register, publicize, record, and enforce rules pertaining to sex offenders residing in the respective jurisdiction could ease the workload on police chiefs and sheriffs. This bill:

Expands the definition of "local law enforcement authority" to include the office of the chief of police of a municipality and the office of the sheriff of a county for purposes of the sex offender registration program.

Sex Offender Civil Commitment Program—S.B. 166

by Senator Shapiro—House Sponsor: Representative Madden et al.

Currently, the Council on Sex Offender Treatment (CSOT) is an independent board that is administratively attached to the Department of State Health Services (DSHS). This bill:

Entitles the Office of Violent Sex Offender Management (OVSOM) to obtain from DSHS criminal history record information that is maintained by DSHS and that relates to a person who has applied with the office to be an employee or contracted service provider.

Allows this criminal history record information to be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

Requires OVSOM to destroy criminal history record information as soon as practicable after the date on which the person's employment or contract with the office terminates or the office decides not to employ or contract with the person.

Establishes that OVSOM is a state agency and sets up the composition and provisions of a governing board.

Establishes that OVSOM is subject to the Texas Sunset Act on September 1, 2023.

Allows OVSOM to apply for and accept grants and donations.

Requires OVSOM to prepare and make public information of public interest describing the functions of OVSOM and procedures by which complaints are filed and resolved.

Requires OVSOM to submit a report to the governor, lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

Authorizes OVSOM to select and employ a general counsel, staff attorneys, and other staff necessary to perform OVSOM functions.

Requires OVSOM to perform appropriate functions related to the sex offender civil commitment program, including functions related to the provision of treatment and supervision of civilly committed sex offenders.

Requires DSHS to provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services to OVSOM as often as necessary.

Requires OVSOM to prepare, approve, and submit a legislative appropriations request (LAR) that is separate from DSHS's LAR.

Requires the Texas Department of Criminal Justice (TDCJ) to establish a multidisciplinary team (team) to review records of a person referred to the team, including one person from DSHS, two persons from the TDCJ, one person from the Department of Public Safety of the State of Texas (DPS), two persons from OVSOM, and one person from CSOT.

Requires the judge to impose on a person's outpatient civil commitment requirements participation and compliance with specific course of treatment provided by OVSOM with all written requirements imposed by the case manager or OVSOM.

Deletes the requirement that a person must notify the case manager immediately or within 24 hours of any change in the person's status that affects proper treatment and supervision.

Requires the judge to provide a copy of requirements imposed to the person to OVSOM and requires OVSOM to provide a copy of those requirements to the case manager and service providers.

Provides that a treatment provider may receive annual compensation in an amount not to exceed \$10,000, rather than \$6,000 for providing the required treatment.

Requires OVSOM to enter into appropriate memoranda of understanding with DPS for the provision of a tracking service and with DPS and local law enforcement authorities for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

Requires OVSOM to enter into appropriate memoranda of understanding for any necessary supervised housing and to reimburse the applicable provider for housing costs.

Provides that all other reports and cost of tracking service be made to OVSOM, rather than to CSOT.

Requires any correctional facility to notify the person's case manager in writing of the anticipated date and time of the person's release not later than the day preceding the date the facility releases a person who, at the time of the person's detention or confinement, was civilly committed as a sexually violent predator.

Exempting Persons From the Sex Offender Registry—S.B. 198

by Senator West—House Sponsor: Representative Todd Smith

Under Texas law, consensual sex does not exist when one of the subjects involved is a minor. State law allows a defense to prosecution if no more than a three-year age difference exists between the victim and the defendant in determining whether statutory rape has been committed. Texas law mandates lifetime sex offender registration, with few exceptions, for any adult (18 or older) convicted of an offense under the Sex Offender Registration Program in

the Code of Criminal Procedure and makes no distinction between a non-violent, consent-based offense and the registration requirements of a pedophile. This bill:

Requires the judge in the trial of an offense or when assigning community supervision to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that at the time of the offense, the defendant was not more than four years older than the victim or intended victim and the victim or intended victim was at least 15, rather than 13, years of age.

Allows certain eligible persons required to register to petition the court for an order exempting the person from registration at any time on or after the date of the person's sentencing or the date the person is placed on deferred adjudication community supervision.

Provides that a defendant who before September 1, 2011, rather than 2001, is convicted of or placed on deferred adjudication community supervision for an offense of sexual assault or indecency with a child is eligible to petition the court and allows the court to consider the petition only if the petition states that the defendant would have been entitled to the entry of affirmative finding had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2011.

Allows that court to consider testimony from the victim or intended victim, or a member of the victim's or intended victim's family, concerning the requested exemption; the relationship between the victim or intended victim and the petitioner at the time of the hearing; and any other evidence that the court determines is relevant and admissible.

Allows a court to issue an order exempting the person from registration if it appears by a preponderance of evidence that the exemption does not threaten public safety; the exemption is in the best interest of the victim or intended victim; and the exemption is in the best interest of justice.

Requires DPS to determine the minimum required registration period under federal law for each reportable conviction or adjudication and to compile and publish a list of reportable convictions or adjudications for which a person must register for a period that exceeds the minimum required registrations period under federal law.

Requires DPS, to the extent possible, to periodically verify with the United States Department of Justice's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking or another appropriate federal agency or office the accuracy of the list of reportable convictions or adjudications.

Age Limit for Juveniles Placed on Determinate Sentence Probation—S.B. 1208

by Senator Whitmire—House Sponsor: Representative Madden

A juvenile placed on determinate sentence probation may be on probation until the juvenile is 18 years of age. This bill:

Establishes that the court retains jurisdiction over a person who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, or a motion for transfer of determinate sentence probation to an appropriate district court if the petition or motion to modify was filed while the respondent was younger than 18 years of age or the motion for transfer was filed while the respondent was younger than 19 years of age; the proceeding is not complete before the respondent becomes 18 or 19 years of age; and the court enters a finding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

Requires the court, if the sentence of probation and any time extension of probation will continue after the child's 19th birthday, to discharge the child from the sentence of probation on the child's 19th, rather than 18th, birthday unless the court transfers the child to an appropriate district court.

Prohibits a court, if a court extends probation for any additional time necessary to complete required counseling, from extending the probation to a date after the date of the child's 18th birthday, or 19th birthday if the child is placed on determinate sentence probation.

Provides that any disposition, except a commitment to TYC, may be modified by the juvenile court until the child reaches the child's 18th birthday or the child's 19th birthday, if the child was placed on determinate sentence probation.

Provides that, except for a commitment to TYC or a placement on determinate sentence probation, all dispositions automatically terminate when the child reaches the child's 18th birthday.

Requires a court to hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation if a child is placed on probation for a period of time that will continue after the child's 19th birthday.

Requires that the hearing be conducted before the child's 19th birthday and in the same manner as a hearing to modify disposition.

Requires the court, if the court determines to discharge the child, to specify a date on or before the child's 19th birthday to discharge the child from the sentence of probation.

Requires the court, if a child violates a condition of community supervision or a condition of probation and that violation was not discovered by the state before the child's 19th birthday, to dispose of the violation of community supervision or probation, as appropriate.

Type A and Type B Economic Development Corporations—H.B. 479

by Representative Orr—Senate Sponsor: Senator Birdwell

Under current law, a board of directors of a Type A or Type B economic development corporation can only meet within the boundaries of the authorizing municipality. This restriction makes it difficult for a board in a small county to work with other corporations and to conduct joint projects. H.B. 479 will provide economic development corporations the flexibility needed to conduct board meetings. This bill:

Authorizes the board of directors of a Type A economic development corporation, if the authorizing municipality is located in a county with a population of less than 30,000, to conduct a board meeting within the boundaries of the county.

Authorizes the board of directors of a Type B economic development corporation, if the authorizing municipality is located in a county with a population of less than 30,000, to conduct a board meeting within the boundaries of the county.

Penalties for Failure of a Trustee to Compensate a Beneficiary for Timber Sold—H.B. 612

by Representative Hopson—Senate Sponsor: Senator Nichols

Natural Resources Code theft penalties are currently not aligned with penalties established in the Penal Code. Under current law, a trustee who fails to pay the beneficiaries of the trust the purchase price of timber sold can only be charged with a state jail felony. To account for the range of severity of timber theft, the penalties for such theft that are established in the Natural Resources Code should be aligned with penalties established in the Penal Code. This bill:

Provides that an offense is a state jail felony if it is shown on the trial of the offense that the value of the timber sold by a trustee without compensating the beneficiary is at least \$500 but less than \$20,000.

Provides that an offense is a third degree felony if it is shown on the trial of the offense that the value of the timber sold by a trustee without compensating the beneficiary is at least \$20,000 but less than \$100,000.

Provides that an offense is a second degree felony if it is shown on the trial of the offense that the value of the timber sold by a trustee without compensating the beneficiary is at least \$100,000 but less than \$200,000.

Provides that an offense is a first degree felony if it is shown on the trial of the offense that the value of the timber sold by a trustee without compensating the beneficiary is at least \$200,000.

Business Listings on Internet Websites—H.B. 989

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

Local florists across Texas have noted a number of telemarketing businesses advertising themselves as local florists when in fact they are physically located hundreds of miles away. Many chain companies mislead consumers into believing that they are placing their orders with a local florist when their orders are being routed to non-local business locations and when fees and commissions are taken out of the order price. This bill:

Prohibits a person from misrepresenting the geographical location of a business that derives 50 percent or more of its gross income from the sale or arranging for the sale of flowers or floral arrangements in the listing of the business in a telephone directory or other directory assistance database, on an Internet website, or in a print advertisement.

Provides that a person is considered to misrepresent the geographical location of a business if the name of the business indicates that the business is located in a geographical area and, among other things, a telephone call to the local telephone number listed in the directory or database routinely is forwarded or transferred to a location that is outside the calling area covered by the directory or database in which the number is listed; or provided on the Internet website or in a print advertisement routinely is forwarded or transferred to a location that is outside the calling area of the geographical area as indicated by the name of the business.

Does not apply to a publisher of a telephone directory or other publication or a provider of a directory assistance service publishing or providing information about another business; an Internet website that aggregates and provides information about other businesses; an owner or publisher of a print medium providing information about other businesses; an Internet service provider; or an Internet service that displays or distributes advertisements for other businesses.

Homestead Preservation Reinvestment Zones—H.B. 990 [Vetoed]

by Representative Eddie Rodriguez—Senate Sponsor: Senator Watson

The 79th Legislature created a Homestead Preservation District in East Austin at the request of the City of Austin in order to mitigate the effects of rising property taxes. The City of Austin and Travis County currently can create and enter into a tax increment financing zone (TIF zone), which is a funding mechanism that designates a percentage of the yearly increase in taxable property value towards a specified use, in this case affordable housing. Under current law, the city and county must participate at an equal dollar amount in the TIF zone. This bill:

Provides that the homestead preservation zone designated by ordinance takes effect on the date on which the county adopts a final order agreeing to the creation of the zone, the zone boundaries, and the zone termination date specified by the municipality

Requires the county to pay into the tax increment fund for the zone the same percentage of the tax increment produced by the county that the municipality pays into the fund, rather than requires the county to pay into the tax increment fund for the zone an amount equal to the tax increment paid by the municipality.

Sets forth provisions relating to the composition of the board of directors of homestead preservation reinvestment zones.

Repeal of the Supercollider Facility Research Authority—H.B. 1245

by Representative Callegari—Senate Sponsor: Senator Birdwell

The Texas National Research Laboratory Commission (TNRLC) and the Superconducting Super Collider Facility Research Authority were created to assist with the development of the supercollider project in Waxahachie. Congress repealed funding of the supercollider project and, without congressional backing, TNRLC ceased to function. The legislature previously repealed the enabling legislation for TNRLC, but enabling legislation for the Supercollider Facility Research Authority remained in statute. This bill:

Repeals Chapter 2301 (Superconducting Super Collider Facility Research Authority), Government Code.

Cultural Education Facilities Finance Corporations—H.B. 1263

by Representatives Lucio III and Solomons—Senate Sponsor: Senator Shapiro

Qualified nonprofit organizations are narrowly defined under the Cultural Education Facilities Finance Corporation Act as a cultural or education entity, and many nonprofit entities, such as Big Brothers Big Sisters, do not qualify because they are not cultural or educational. Expanding the definition of qualified nonprofit organizations to include all nonprofit organizations will allow entities such as the Boy Scouts of America to use Texas financing to build facilities in Texas and other states. This financing methodology does not use taxpayer dollars or state revenue, and the bonds are backed by the future revenue of the new facility. This bill:

Provide that the legislature finds, among other findings, that qualified nonprofit corporations in this state have invested substantial funds in useful and beneficial cultural facilities and have experienced difficulty in undertaking additional projects because of the inadequacy of their own funds or of funds potentially available from local subscription sources and because of limitations of local financial institutions in providing necessary financing for these facilities.

Redefines "cultural facility."

Requires that a cultural education facilities finance corporation (corporation) be created and organized in the same manner as a health facilities development corporation and has the same powers, authority, and rights with respect to certain facilities.

Requires that any authorized bonds, notes, or other obligations, except as otherwise provided, be issued in accordance with the Public Securities Procedures Act.

Authorizes the corporation to exercise its powers on behalf of a user outside of this state if the user also conducts lawful activities in this state.

Retainage Under Certain Construction Contracts—H.B. 1390

by Representatives Deshotel and Bohac—Senate Sponsor: Senator Estes

Current law requires the owner of a construction project to retain 10 percent of each payment to the general contractor for the benefit of the subcontractors working on the project. When the project is completed, the owner releases the retained funds to the general contractor, who passes them on to its subcontractors and suppliers. The retained funds, known as "retainage," protect the subcontractors and suppliers from the possibility that a general contractor will go bankrupt without paying them. In order to secure the right to be paid a portion of the retainage, a subcontractor must notify the owner that it is entitled to a portion of the retainage before the end of the fifteenth day of the second month after it begins works on the project and file a lien affidavit on the owner's property before the thirtieth day after the project's completion specifying the amount of retainage it is owed, and the owner is prohibited from releasing the funds until 30 days after the completion. The early date of the initial notice serves little purpose, since owners are statutorily required to retain the funds regardless of whether they have received notice and that the filing deadline for the lien affidavit causes problems, because the statutory scheme requires subcontractors to encumber the property with a lien before the owner can release the funds to avoid the encumbrance. Additionally, the date of completion, which triggers all of the statutory deadlines, is never clear, since no party has the duty or the ability under the statute to declare when completion has occurred. This bill:

Provides that a claim for retainage accrues on the earliest of the last day of the month in which all work called for by the contract between the owner and the original contractor has been completed, finally settled, terminated, or abandoned.

Authorizes a claimant to give notice instead of or in addition to notice under Section 53.056 (Derivative Claimant: Notice to Owner or Original Contractor) or 53.252 (Derivative Claimant: Notice to Owner or Original Contractor), Property Code, if the claimant is to labor, furnish labor or materials, or specially fabricate materials, or has labored, furnished labor or materials, or specially fabricated materials, under an agreement with an original contractor or a subcontractor providing for retainage.

Requires the claimant to give the owner or reputed owner notice of contractual retainage not later than the earlier of the 30th day after the date the claimant's agreement providing for retainage is completed, terminated, or abandoned, or the 30th day after the date the original contract is terminated or abandoned.

Requires the claimant, if an agreement for contractual retainage is with a subcontractor, to also give the notice of contractual retainage to the original contractor within the prescribed period.

Requires that the notice generally state the existence of a requirement for retainage and contain the name and address of the claimant and, if the agreement is with a subcontractor, the name and address of the subcontractor.

Provides that a claimant has a lien on, and the owner is personally liable to the claimant for, the retained funds if the claimant gives notice and is in compliance, or files an affidavit claiming a lien not later than the earliest of the date required for filing an affidavit; the 40th day after the date stated in an affidavit of completion as the date of completion of the work under the original contract, if the owner sent the claimant notice of an affidavit of completion in the time and manner required; the 40th day after the date of termination or abandonment of the original contract, if the owner sent the claimant a notice of such termination or abandonment in the time and manner required; or the 30th day after the date the owner sent to the claimant to the claimant's address provided in the notice for contractual retainage a written notice of demand for the claimant to file the affidavit claiming a lien; and gives the notice of the filed affidavit.

Sets forth requirements for the written notice of demand for the claimant to file the affidavit claiming a lien.

Requires that an affidavit of completion or a notice relating to termination of work or abandonment of performance contain, among other things, a conspicuous statement that a claimant is prohibited from having a lien on retained funds unless the claimant files an affidavit claiming a lien not later than the 40th day after the date the work under the original contract is completed or after the date of the termination or abandonment.

Provides that if an owner is required to send a notice relating to termination of work or abandonment of performance to a subcontractor and fails to send the notice, the subcontractor is not required to comply with provisions of this bill to claim retainage and is authorized to claim a lien by filing a lien affidavit.

Requires an owner, on written request, to furnish certain information within a reasonable time, but not later than the 10th day after the date the request is received, to any person furnishing labor or materials for the project, including the date on which the original contract for the project was executed.

Requires an original contractor, on written request by a person who furnished work under the original contract, to furnish to the person certain information within a reasonable time, but not later than the 10th day after the date the request is received, including the date on which the original contract for the project was executed.

Provides that a subcontractor who does not receive information requested within the required period is not required to comply provisions of this bill and is authorized to perfect a lien for retainage by filing a lien affidavit.

Provides that the grounds for objecting to the validity or enforceability of the claim or lien for purposes of the motion are limited to, among other things:

the deadlines for perfecting a lien claim for retainage have expired and the owner complied with the retainage requirements and paid the retainage and all other funds owed to the original contractor before the claimant perfected the lien claim, and the owner received a notice of the claim; and all funds subject to the notice of a claim to the owner and a notice regarding the retainage have been deposited in the registry of the court and the owner has no additional liability to the claimant.

Mechanic's, Contractor's, or Materialman's Liens—H.B. 1456

by Representative Orr—Senate Sponsor: Senator Deuell

Mechanic's, contractor's, and materialman's liens help contractors, subcontractors, and suppliers collect money due to them for labor or materials they provide for construction projects. Due to lack of guidelines, virtually every lender, title company, owner, original contractor, subcontractor, and supplier has developed its own unique lien waiver forms. As these waiver forms have become more complex, parties cannot agree on the terms of the waiver to provide in exchange for payment, even though funds are available to pay a lien or potential lien claim. One set of statutory lien waiver forms to be used during the payment process on private construction projects in Texas is needed in order to avoid disagreement among the parties regarding the terms of the lien waiver or release and subsequent delays in payments, the filing of additional liens, and litigation. This bill:

Provides that a person who provides labor, plant material, or other supplies for the installation of landscaping for a house, building, or improvement, including the construction of a retention pond, retaining wall, berm, irrigation system, fountain, or other similar installation, under or by virtue of a written contract with the owner or the owner's agent, contractor, subcontractor, trustee, or receiver has a lien on the property.

Provides that any waiver and release of a lien or payment bond claim under Chapter 53 (Mechanic's, Contractor's, or Materialman's Lien), Property Code, is unenforceable unless a waiver and release is executed and delivered in accordance with provisions of this bill.

Provides that a waiver and release is effective to release the owner, the owner's property, the contractor, and the surety on a payment bond from claims and liens only if the waiver and release substantially complies with one of the prescribed forms prescribed; the waiver and release is signed by the claimant or the claimant's authorized agent and notarized; and in the case of a conditional release, evidence of payment to the claimant exists.

Provides that a statement purporting to waive, release, or otherwise adversely affect a lien or payment bond claim is not enforceable and does not create an estoppel or impairment of lien or payment bond claim unless the statement is in writing and substantially complies with a prescribed form; the claimant has actually received payment in good and sufficient funds in full for the lien or payment bond claim; or the statement is in a written original contract or subcontract for the construction, remodel, or repair of a single-family house, townhouse, or duplex or for land development related to a single family house, townhouse, or duplex; and made before labor or materials are provided under the original contract or subcontract.

Provides that the filing of a lien rendered unenforceable by a lien waiver does not violate Section 12.002 (Liability), Civil Practice and Remedies Code, unless an owner or original contractor sends a written explanation of the basis for nonpayment, evidence of the contractual waiver of lien rights, and a notice of request for release of the lien to the claimant at the claimant's address stated in the lien affidavit; and the lien claimant does not release the filed lien affidavit on or before the 14th day after the date the owner or the original contractor sends the items required.

Provides that certain sections of the bill do not apply to a person who supplies only material, and not labor, for the construction, remodel, or repair of a single-family house, townhouse, or duplex or for land development related to a single-family house, townhouse, or duplex.

Prohibits a person from requiring a claimant or potential claimant to execute an unconditional waiver and release for a progress payment or final payment amount unless the claimant or potential claimant received payment in that amount in good and sufficient funds.

Provides that a waiver and release given by a claimant or potential claimant is unenforceable unless it substantially complies with the applicable form.

Sets forth the required language of the required waiver and release, if a claimant or potential claimant is required to execute:

- a waiver and release in exchange for or to induce the payment of a progress payment and is not paid in exchange for the waiver and release or if a single payee check or joint payee check is given in exchange for the waiver and release;
- an unconditional required waiver and release to prove the receipt of good and sufficient funds for a progress payment and the claimant or potential claimant asserts in the waiver and release that the claimant or potential claimant has been paid the progress payment;
- a waiver and release in exchange for or to induce the payment of a final payment and is not paid in good and sufficient funds in exchange for the waiver and release or if a single payee check or joint payee check is given in exchange for the waiver and release; and
- an unconditional waiver and release to prove the receipt of good and sufficient funds for a final payment and the claimant or potential claimant asserts in the waiver and release that the claimant or potential claimant has been paid the final payment.

Requires that a waiver or release be construed to comply with provisions of this bill and be enforceable in the same manner as a waiver and release if the waiver or release is furnished in attempted compliance or evidences by its terms intent to comply.

Requires that any provision in any waiver or release furnished in attempted compliance with provisions of this bill that expands or restricts the rights or liabilities be disregarded and the provisions of this bill be read into that waiver or release.

Provides that notwithstanding any other law and except as provided by certain sections of this bill, any contract, agreement, or understanding purporting to waive the right to file or enforce any lien claim created under this bill is void as against public policy.

Provides that this bill does not apply to a written agreement to subordinate, release, waive, or satisfy all or part of a lien or bond claim in an accord and satisfaction of an identified dispute; an agreement concerning an action pending in any court or arbitration proceeding; or an agreement that is executed after an affidavit claiming the lien has been filed or the bond claim has been made.

Shareholder Standing After Mergers—S.B. 1568

by Senator Estes—House Sponsor: Representative Elkins

Section 21.552 (Standing to Bring Proceeding), Business Organizations Code, governs shareholder standing to file a derivative suit. Section 21.552(b) can be read to authorize a former shareholder to file a derivative suit after a merger destroys his or her interest in a corporation. Texas courts have not interpreted Section 21.552(b) in this manner. This bill:

Deletes Section 21.552(b), prohibiting Subchapter J (Fundamental Business Transactions) or Chapter 10 (Mergers, Interest Exchanges, Conversions, and Sales of Assets), to the extent a shareholder of a corporation has standing to

institute or maintain a derivative proceeding on behalf of the corporation immediately before a merger, from being construed to limit or terminate the shareholder's standing after the merger.

Development Agreements in Extraterritorial Jurisdictions—H.B. 1643

by Representative Zerwas—Senate Sponsor: Senator Hegar

Under existing law, the initial term of a development agreement governing land in an extraterritorial jurisdiction (ETJ) may be up to 15 years, subject to subsequent renewals not to exceed 45 years. Landowners and cities have used development agreements as a critical tool in planning for the development of property within a city's ETJ. However, the content of development agreements varies among cities. This bill:

Authorizes the governing body of a municipality to make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to, among other things, guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality, rather than guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years.

Prohibits the total duration of the contract and any successive renewals or extensions from exceeding 45 years and deletes existing text authorizing the parties to a contract to renew or extend it for successive periods not to exceed 15 years each.

Disaster Remediation Contracts—H.B. 1711

by Representative John Davis—Senate Sponsor: Senator Jackson

During the time period following natural disasters, consumers are especially vulnerable to deceptive trade practices. Contractors involved in the disaster remediation process sometimes require an upfront payment. H.B. 1711 improves access to reliable and responsible disaster remediation contractors in the state. Provisions of the bill are effective following a declaration of a natural disaster by the governor. This bill:

Adds Chapter 57 (Disaster Remediation Contracts), Business & Commerce Code.

Applies to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person.

Does not apply to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person if the contractor maintains for at least one year preceding the date of the contract a physical business address in the county in which the property is located or a county adjacent to the county in which the property is located.

Requires that a contract be in writing.

Provides that a disaster remediation contractor is prohibited from requiring a person to make a full or partial payment under a contract before the contractor begins work; is prohibited from requiring that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered; and is required to include in any contract for disaster remediation services a prescribed statement in conspicuous, boldfaced type of at least 10 points in size.

Provides that a violation of Chapter 57 by a disaster remediation contractor is a false, misleading, or deceptive act or practice, and any remedy under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, is available for a violation of this Chapter 57.

Prohibits a person from waiving Chapter 57 by contract or other means and provides that a purported waiver of Chapter 57 is void.

Consideration of a Bidder's Location of Business in Awarding Contracts—H.B. 1869

by Representative Giddings—Senate Sponsor: Senator West

Under current law, provisions which allow certain small or medium-size cities or counties the option to accept bids from a bidder whose principal place of business is within the locality if the bid is within three percent of the lowest bid price are bracketed to apply only to municipalities and counties with a certain population size. This bill:

Redefines "local government" and deletes existing text in the Local Government Code limiting the authority to consider a bidder's principal place of business when awarding a contract to municipalities with a population of less than 250,000.

Alcoholic Beverage Seller Training Programs—H.B. 1952

by Representative Kuempel—Senate Sponsor: Senator Eltife

The Texas Alcoholic Beverage Commission (TABC) approves training programs for employees who sell or serve alcohol. TABC certifies program trainers and certifies sellers and servers who complete a training program. If a program trainer or employee violates the Alcoholic Beverage Code or TABC rule, the only recourse TABC has to address the violation is to cancel the program approval or certification of the trainer employee. This bill:

Authorizes TABC, after notice and hearing, to cancel or suspend TABC's approval of a seller training program, TABC's certification of a trainer to teach a seller training program, or TABC's certification of a seller-server if the program, trainer, or seller-server violates the Alcoholic Beverage Code or a TABC rule.

Authorizes TABC to give a program, trainer, or seller-server the opportunity to pay a civil penalty rather than be subject to a suspension.

Provides that Sections 11.62 (Hearing for Cancellation or Suspension of Permit), 11.63 (Notice of Hearing), 11.64 (Alternatives to Suspension, Cancellation), 11.641 (Amount of Civil Penalty), 11.65 (Notice of Cancellation of Suspension), 11.66 (Suspension or Cancellation Against Retailer), and 11.67 (Appeal From Cancellation, Suspension, or Refusal of License or Permit) apply to the program approval or certification as if the program approval or certification were a license or permit under the Alcoholic Beverage Code.

Redefines "local government" and deletes existing text in the Local Government Code limiting the authority to consider a bidder's principal place of business when awarding a contract to municipalities with a population of less than 250,000.

Alcoholic Beverage Distributor or Wholesaler Operations—H.B. 2035

by Representative Hamilton—Senate Sponsor: Senator Jackson

The operations of certain alcoholic beverage distributors and wholesalers in Texas have been disrupted in recent years due to hurricane-related damage to warehouses and delivery vehicles and closures of roads and causeways. Such disruptions hinder distributors and wholesalers from transporting emergency drinking water to areas where public water supplies have been compromised. Because alcoholic beverages are regulated, distributors and wholesalers have limited options for quickly shifting operations to alternate locations to continue serving customers and also making emergency drinking water available. This bill:

Requires the holder of a carrier permit who transports liquor to the premises of a wholesaler and a person transporting beer to the premises of a distributor, including to a location from which the wholesaler is temporarily conducting business, to provide to the consignee a shipping invoice that clearly states: the name and address of the consignor and consignee; the origin and destination of the shipment; and any other information required by this code or commission rule, including the brands, sizes of containers, types, and quantities of liquor contained in the shipment.

Authorizes a distributor or wholesaler, during a period of emergency, to temporarily operate all or part of the distributor's or wholesaler's business from an alternate location, including storing alcoholic beverages, maintaining required records, receiving alcoholic beverages from suppliers, dispatching orders intended for sale to authorized purchasers, and performing any other function the distributor or wholesaler is authorized by this code to perform at the licensed or permitted premises.

Provides that the alternate location is considered the distributor's or wholesaler's licensed or permitted premises, as applicable.

Authorizes a holder of a permit or license under Chapter 41 (Carrier Permit), 42 (Private Carrier Permit), or 68 (Importer's Carrier's License) to make deliveries to and pick up deliveries from the alternate location in the same manner as the Alcoholic Beverage Code and TABC rules provide for the distributor's or wholesaler's licensed or permitted premises.

Requires a distributor or wholesaler who temporarily operates all or part of the distributor's or wholesaler's business from an alternate location to immediately notify the administrator, in writing, of the alternate location.

Requires the alternate location to be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or where the distributor or wholesaler had been operating under Section 251.77 (Continuance of Operation as Distributor) or 251.78 (Continuance of Operation as Wholesaler), Alcoholic Beverage Code.

Requires that the alternate location, if beer, ale, or malt liquor is handled at the alternate location, be in the area assigned to the distributor or wholesaler under Subchapters C (Territorial Limits on Sale of Beer) and D (Beer Industry Fair Dealing Law), Chapter 102 (Intra-Industry Relationships), Alcoholic Beverage Code.

Authorizes the administrator, if the delivery vehicles operated by the affected distributor or wholesaler are wholly or partially disabled, to grant the distributor or wholesaler the authority to contract with another distributor or wholesaler for the temporary sharing of delivery vehicles.

Provides that authority granted under this bill is in addition to authority granted under other provisions of the Alcoholic Beverage Code to share delivery vehicles and warehouses.

Provides that a distributor's or wholesaler's authority to operate from an alternate location expires on the first anniversary of the date the distributor or wholesaler commences business operations at an alternate location.

Authorizes the administrator to grant the distributor or wholesaler a one-year extension of the authority to operate from an alternate location, after which the distributor or wholesaler is required to apply for a license or permit for the alternate location in the usual manner.

Evaluation of Oil and Gas Resources by Engineers—H.B. 2067

by Representative Callegari—Senate Sponsor: Senator Seliger

The evaluation of oil and gas resources involves quantifying the volume of oil and gas reserves and resources in the subsurface of the earth, forecasting of oil and gas production, and evaluating the economic impact of the production forecasts. This practice is not regulated by any state even though it requires special knowledge, training, and application of engineering principles. Recently, Texas Board of Professional Engineers (TBPE) staff concluded that engineers who evaluate oil and gas resources in Texas must be licensed under the Texas Engineering Practice Act. This conclusion gives rise to the concern that licensing agencies in other states, once learning of the TBPE opinion, may reciprocate by disallowing the export of Texas professional engineering expertise for the evaluation of oil and gas resources within reservoirs underlying those states. This bill:

Defines "evaluation of gas and gas resources."

Provides that Chapter 1001 (Engineers), Occupations Code, does not apply to the evaluation of oil and gas resources if the evaluation is done by an engineer licensed in a state that does not prohibit engineers licensed Chapter 1001 from engaging in the evaluation of oil and gas resources in that state; does not involve design, construction, or engineering assessments on the surface; and does not present a risk to public health or safety.

Letter of Credit Issued by Federal Home Loan Banks—H.B. 2103

by Representative Jim Jackson—Senate Sponsor: Senator Carona

When municipalities make deposits with a bank, the Federal Deposit Insurance Corporation (FDIC) will generally provide deposit insurance to a maximum amount of \$250,000. Amounts deposited in excess of \$250,000 require a separate form of insurance, and a letter of credit is issued as a promise to pay. Federal home loan banks may also issue a letter of credit as deposit insurance above FDIC coverage level for municipal deposits but there is confusion whether a letter of credit from these federal banks is acceptable under Texas law. This bill:

Provides that "eligible security" means a surety bond; an investment security; an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security; a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security; a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or a letter of credit issued by a federal home loan bank.

Violations and Offenses Under the Securities Act—H.B. 2342

by Representative Truitt—Senate Sponsor: Senator Watson

Since its inception in 1957, the Securities Act (Act) has provided for criminal penalties and fines. While the amount for criminal fines was increased for some violations, not all of the fines are in line with those established in the Penal Code. Current law does not provide the authority to assess civil fines for a violation of the Act and current criminal penalties and administrative fines authorized by the Act are unable to deter financial fraud. This bill:

Authorizes the securities commissioner (commissioner), after giving notice and opportunity for a hearing, to, in addition to any other remedies, issue an order which assesses an administrative fine against any person or company found to have, with intent to deceive or defraud or with reckless disregard for the truth or the law, materially aided any person who engaged in fraud or a fraudulent practice in connection with the offer for sale or sale of a security or the rendering of services as an investment adviser or investment adviser representative; made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or engaged in an act or practice that violates the Act or a State Securities Board (SSB) rule or order.

Requires that any administrative fine assessed, together with the amount of any civil penalty already awarded, be in an amount not to exceed the greater of \$20,000 per violation or the gross amount of any economic benefit gained by the person or company a result of the act or practice for which the fine was assessed; and if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than \$250,000.

Requires that any person who shall:

- sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer or agent as in this Act provided be deemed guilty of a felony of the third degree;
- sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7 (Permit or Registration for Issue by Commissioner; Information for Issuance of Permit or Registration) of this Act, be deemed guilty of a felony of the third degree;
- knowingly violate a cease and desist order issued by the commissioner under the authority of this Act be deemed guilty of a felony of the third degree;
- knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this Act, whether or not such document or proceeding relates to a transaction or security exempt under provisions of the Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect be deemed guilty of a felony of the third degree;
- knowingly make any false statement or representation concerning any registration made or exemption claimed under the provisions of this Act be deemed guilty of a state jail felony;
- make an offer of any security within this state that is not in compliance with the requirements governing offers set forth in the Act be deemed guilty of a state jail felony;
- knowingly make an offer of any security within this state prohibited by a cease publication order issued by the commissioner be deemed guilty of a state jail felony; and
- render services as an investment adviser or an investment adviser representative without being registered as required by this Act be deemed guilty of a felony of the third degree.

Provides that any person who shall, in connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security or securities, whether or not the transaction or security is exempt, or in connection with the rendering of services as an investment adviser or an investment adviser representative, directly or indirectly engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person, is:

- guilty of a felony of the third degree, if the amount involved in the offense is less than \$10,000;
- guilty of a felony of the second degree, if the amount involved in the offense is \$10,000 or more but less than \$100,000; or
- guilty of a felony of the first degree, if the amount involved is \$100,000 or more.

Authorizes a conviction of an offense to be enhanced as provided by Section 12.42 (Penalties for Repeat and Habitual Felony Offenders), Penal Code.

Authorizes the attorney general to, on request by the commissioner, and in addition to any other remedies, whenever it shall appear to the commissioner either upon complaint or otherwise, that any person has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in connection with the sale of a security, has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in the rendering of services as an investment adviser or investment adviser representative, has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public, or has engaged, is engaging, or is about to engage in an act or practice that

violates this Act or an SSB rule or order, bring action in the name and on behalf of the State of Texas against such person or company and any person who, with intent to deceive or defraud or with reckless disregard for the truth or the law, has materially aided, is materially aiding, or is about to materially aid such person and any other person or persons heretofore concerned in or in any way participating in or about to participate in such acts or practices, to enjoin such person or company and such other person or persons from continuing such acts or practices or doing any act or acts in furtherance thereof.

Authorizes the attorney general, in addition to any other remedies, on the request of the commissioner, to seek equitable relief, including restitution, for a victim of fraudulent practices and to seek the disgorgement of any economic benefit gained by a defendant through an act or practice that violates this Act or for which this Act provides the commissioner or the attorney general with a remedy.

Authorizes the attorney general, in addition to any other remedies, on the request of the commissioner, to seek a civil penalty to be paid to the state in an amount, together with the amount of any administrative fine already assessed, not to exceed the greater of \$20,000 per violation, or the gross amount of any economic benefit gained by the person or company as a result of the commission of the act or practice; and if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than \$250,000.

Authorizes the attorney general, in an action brought under this section, to recover reasonable costs and expenses incurred by the attorney general in bringing the action.

Texas Enterprise Fund Grant Agreements—H.B. 2457

by Representative John Davis et al.—Senate Sponsor: Senator Jackson

The Texas Enterprise Fund (TEF) was created by the 78th Legislature as a fund to bring new businesses to the state. Each eligible project must undergo a rigorous analysis to determine its worthiness, including the number of jobs created and the rate of return for use of public dollars. The amount of money promised to these businesses directly relates to the number of jobs provided, and the impact of those jobs on the economy. The governor, lieutenant governor, and speaker of the house of representatives must unanimously agree to support the use of TEF for each specific project. However, during the recent economic downturn, several recipients of TEF found that they would not be able to expand as rapidly as hoped, and promised jobs would not be materializing. The governor's office amended several contracts, taking into account the projected loss to the economy as a result of those unrealized jobs. This bill:

Provides that an award of money appropriated from TEF is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 91st day after the date of receipt of the proposal from the governor.

Authorizes the lieutenant governor or the speaker of the house of representatives to extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

Requires a grant agreement to contain a provision requiring the creation of a minimum number of jobs in this state and specifying the date by which the recipient intends to create those jobs.

Requires a grant agreement to contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient is required to repay the grant.

Requires the governor to, at least 14 days before the date the governor intends to amend a grant agreement, notify and provide a copy of the proposed amendment to the speaker of the house of representatives and the lieutenant governor.

Requires repayment of a grant to be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets.

Requires the governor to, not later than January 31 of each year, submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report that includes the certain information regarding awards made under TEF during each preceding state fiscal year.

Requires the office of the governor, to the maximum extent practicable, to annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under TEF and of other investments made by the governor, on behalf of the state, in connection with an award under TEF.

Requires the governor to appoint to the Texas Emerging Technology Advisory Committee (committee) 13 nominated individuals; requires the lieutenant governor to appoint two senators to the committee; and requires the speaker of the house of representatives to appoint two members of the house of representatives to the committee.

Requires each member of the committee to file with the office of the governor a certain verified financial statement and provides that all information obtained and maintained, including information derived from the financial statements, is confidential and is not subject to disclosure.

Requires the governor, on request or in the normal course of official business, to provide information that is confidential to the State Auditor's Office.

Does not affect release of information for legislative purposes pursuant to Section 552.008 (Information for Legislative Purposes), Government Code.

Requires each entity recommended by the committee for an award of money from TEF to obtain and provide the certain information to the office of the governor, including a federal criminal history background check for each principal of the entity; a state criminal history background check for each principal of the entity; a credit check for each principal of the entity; a copy of a government-issued form of photo identification for each principal of the entity; and information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

Requires the governor, with each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, to provide each officer with a copy of the information provided by the appropriate entity.

Provides that certain information collected by the governor's office, the committee, or the committee's advisory panels is public information and authorizes information to be disclosed, including the name and address of an individual or entity receiving or having received an award from TEF; the amount of funding received by an award recipient; a brief description of the project that is funded; if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from TEF; and any other information designated by the committee with consent.

Requires each regional center of innovation and commercialization, including the Texas Life Science Center for Innovation and Commercialization, to keep minutes of each meeting at which applications for funding are evaluated for at least three years.

Requires the minutes to include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding and indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

Prohibits money in the unemployment compensation fund from being transferred to TEF or the Texas Emerging Technology Fund.

Authorizes money in the training stabilization fund to be used in a year in which the amounts in the employment and training investment holding fund are insufficient to meet the legislative appropriation for that fiscal year for the skills development program strategies and activities.

Commercial Motor Vehicle Installment Sales—H.B. 2559

by Representative Truitt—Senate Sponsor: Senator Harris

Chapter 348 (Motor Vehicle Installment Sales), Finance Code, currently applies to both commercial and consumer motor vehicle retail installment contracts. Over the years, amendments to the statute have resulted in numerous exceptions providing special rules that apply to either commercial or consumer transactions, but not both. As a result, some parts of Chapter 348 apply only to commercial transactions, some apply only to consumer transactions, and some apply to both but include various exceptions for one or the other. This bill:

Adds Chapter 353 (Commercial Motor Vehicle Installment Sales), Finance Code, to include existing provisions of Chapter 348, Finance Code.

Provides that a retail installment transaction in which a retail buyer purchases a motor vehicle that is a commercial vehicle is not subject to Chapter 348 and is subject to Chapter 353 if the retail installment contract states that Chapter 353 applies.

Authorizes a retail seller or holder, notwithstanding other provisions, if a retail buyer represents in writing that a motor vehicle is not for personal, family, or household use, or that the vehicle is for commercial use, to rely on that representation unless the retail seller or holder, as applicable, has actual knowledge that the representation is not true.

Provides that a bailment or lease of a commercial vehicle is a retail installment transaction if the bailee or lessee contracts to pay as compensation for use of the vehicle an amount that is substantially equal to or exceeds the value of the vehicle; and on full compliance with the bailment or lease is bound to become the owner or, for no or nominal additional consideration, has the option to become the owner of the vehicle.

Provides that an agreement for the lease of a commercial vehicle does not create a retail installment transaction by merely providing that the rental price is permitted or required to be adjusted under the agreement as determined by the amount realized on the sale or other disposition of the vehicle, as provided by Section 501.112 (Deputy Assessor-Collectors), Transportation Code.

Provides that a transaction is not excluded as a retail installment transaction because the retail seller arranges to transfer the retail buyer's obligation; the amount of any charge in the transaction is determined by reference to a chart or other information furnished by a financing institution; a form for all or part of the retail installment contract is furnished by a financing institution; or the credit standing of the retail buyer is evaluated by a financing institution.

Provides that the cash price is the price at which the retail seller offers in the ordinary course of business to sell for cash the goods or services that are subject to the transaction and that an advertised price does not necessarily establish a cash price.

Provides that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of certain fees or charges.

Authorizes the certain amounts to be included as an itemized charge or in the cash price in a retail installment contract for a commercial vehicle.

Requires that the contract and debt cancellation agreement, if a charge for a debt cancellation agreement is included in the contract, each conspicuously disclose that the debt cancellation agreement is optional.

Provides that, notwithstanding any other law, a charge for a debt cancellation agreement is not a charge for insurance, and the sale, provision, or waiving of a balance owed or other action relating to a debt cancellation agreement is not considered insurance or engaging in the business of insurance.

Sets forth provisions for the computation of the principal balance under a retail installment contract; the minimum amount of the refund credit on a contract for a commercial vehicle other than a heavy commercial vehicle; time price differential using true daily earnings method; earned time price differential under the true daily earnings method; and the amount a holder is authorized to retain if prepayment in full or demand for payment in full occurs during an installment period, in addition to time price differential that accrued during any elapsed installment periods; and the amount in which a holder who violates Section 353.405 (Outstanding Balance Information; Payment in Full), as added by this bill, is liable to the retail buyer or the buyer's designee.

Provides that Chapter 353 does not affect or apply to a loan made or the business of making loans under other law of this state and does not affect a rule of law applicable to a retail installment sale that is not a retail installment transaction.

Provides that the provisions of Chapter 353 defining specific rates and amounts of charges and requiring certain credit disclosures to be made control over any contrary law of this state respecting those subjects.

Provides that a loan or interest statute of this state, other than Chapter 303 (Optional Rate Ceiling), does not apply to a retail installment transaction subject to Chapter 353.

Provides that, except as provided by Chapter 353, an applicable statute, including Title 1 (Uniform Commercial Code) and Chapter 322 (Uniform Electronic Transactions Act), Business & Commerce Code, or a principle of common law continues to apply to a retail installment transaction unless it is displaced by Chapter 353.

Provides that if a disclosure requirement of Chapter 353 and one of a federal law, including a regulation or an interpretation of federal law, are inconsistent or conflict, federal law controls and the inconsistent or conflicting disclosures required by Chapter 353 need not be given.

Authorizes information not required by Chapter 353 to be included in a retail installment contract.

Provides that items required by Chapter 353 to be in a retail installment contract are not required to be stated in the order set forth in Chapter 353.

Provides that Chapter 651 (Financing of Insurance Premiums), Insurance Code, does not apply to a retail installment transaction.

Authorizes a retail seller and prospective retail buyer to enter into a conditional delivery agreement.

Provides that a retail installment contract is required for each retail installment transaction in which the retail buyer is purchasing a commercial vehicle and sets forth requirements for a retail installment contract.

Prohibits a retail installment contract from being conditioned on the subsequent assignment of the contract to a holder.

Provides that a provision in violation of sections of this bill is void and that certain sections of this bill do not affect the validity of other provisions of the contract that may be given effect without the voided provision, and to that extent those provisions are severable.

Authorizes a retail installment contract to provide for any amount of time price differential permitted or any rate of time price differential not exceeding a yield permitted under sections of Chapter 353.

Authorizes a retail installment contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract to provide for a time price differential that does not exceed the add-on charge provided by this bill.

Authorizes a retail installment contract, as an alternative to the maximum rate or amount authorized for a time price differential, to provide for a rate or amount of time price differential that does not exceed the rate or amount authorized by Chapter 303 (Optional Rate Ceilings).

Provides that a retail installment contract that is payable other than in substantially equal successive monthly installments or the first installment of which is not payable one month from the date of the contract may provide for a time price differential that does not exceed an amount that, having due regard for the schedule of payments, provides the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.

Authorizes a retail installment contract to provide that if an installment remains unpaid after the 10th day after the maturity of the installment for a heavy commercial vehicle or after the 15th day after the maturity of the installment for any other commercial vehicle the holder may collect a delinquency charge that does not exceed five percent of the amount of the installment; or interest on the amount of the installment accruing after the maturity of the installment and until the installment is paid in full at a rate that does not exceed the maximum rate authorized for the contract.

Authorizes a retail installment contract that provides for the true daily earnings method or the scheduled installment earnings method to provide for the delinquency charge, the authorized interest, or both.

Authorizes only one delinquency charge to be collected on an installment regardless of the duration of the default.

Authorizes a retail installment contract to provide for the payment of reasonable attorney's fees if the contract is referred for collection to an attorney who is not a salaried employee of the holder; court costs and disbursements; and reasonable out-of-pocket expenses incurred in connection with the repossession or sequestration of the commercial vehicle securing the payment of the contract or foreclosure of a security interest in the vehicle, including the costs of storing, reconditioning, and reselling the vehicle, subject to the standards of good faith and commercial reasonableness set by Title 1 (Uniform Commercial Code), Business & Commerce Code.

Prohibits a retail installment contract from authorizing the holder to accelerate the maturity of all or a part of the amount owed under the contract unless the retail buyer is in default in the performance of any of the buyer's obligations; the holder believes in good faith that the prospect of the buyer's payment or performance is impaired;

or the retail buyer or an affiliate of the retail buyer is in default in its obligations under another financing agreement or leasing agreement held by the same holder or an affiliate of the holder.

Requires a retail seller to deliver to the retail buyer a copy of the retail installment contract as accepted by the retail seller; or mail to the retail buyer at the address shown on the retail installment contract a copy of the retail installment contract as accepted by the retail seller.

Provides that, until the retail seller complies with this bill, a retail buyer who has not received delivery of the commercial vehicle is entitled to rescind the contract; receive a refund of all payments made under or in contemplation of the contract; and receive the return of all goods traded in to the retail seller under or in contemplation of the contract or, if those goods cannot be returned, to receive the value of those goods.

Provides that any retail buyer's acknowledgment of delivery of a copy of the retail installment contract is, in an action or proceeding by or against a holder of the contract who was without knowledge to the contrary when the holder purchased it, conclusive proof that the copy was delivered to the buyer; that the contract did not contain a blank space that was required to have been completed under Chapter 353 when the contract was signed by the buyer; and of compliance with certain sections of Chapter 353.

Authorizes the holder, on request by a retail buyer, to agree to one or more amendments to the retail installment contract to extend or defer the scheduled due date of all or a part of one or more installments; or renew, restate, or reschedule the unpaid balance under the contract.

Authorizes the holder, if a retail installment contract is amended to defer all or a part of one or more installments for not longer than three months, to collect from the retail buyer an amount computed on the amount deferred for the period of deferment at a rate that does not exceed the effective return for time price differential permitted for a monthly payment retail installment contract; and the amount of the additional cost to the holder for premiums for continuing in force any insurance coverages provided for by the contract, and any additional necessary official fees.

Authorizes the holder, if the unpaid balance of a retail installment contract is extended, renewed, restated, or rescheduled, to collect an amount computed on the principal balance of the amended contract for the term of the amended contract at the time price differential for a retail installment contract that is applicable after reclassifying the commercial vehicle by its model year at the time of the amendment.

Requires that an amendment to a retail installment contract be confirmed in a writing signed by the retail buyer.

Provides that after amendment the retail installment contract is the original contract and each amendment to the original contract.

Authorizes a retail buyer to prepay a retail installment contract in full at any time before maturity and provides that this provision prevails over a conflicting provision of the contract.

Entitles the buyer, if a retail buyer prepays a retail installment contract in full or if the holder of the contract demands payment of the unpaid balance of the contract in full before the contract's final installment is due and the time price differential is computed using the precomputed earnings method or the scheduled installment earnings method, to receive a refund credit as provided by this bill, as applicable.

Provides that, if a retail installment contract is prepaid in full or if the holder demands payment in full of the unpaid balance before final maturity of the contract, the holder earns time price differential for the period beginning on the date of the contract and ending on the date of the earlier of the prepayment or demand, in an amount that does not exceed the amount allowed.

Authorizes the retail buyer and holder of the contract, after a demand for payment in full under a retail installment contract, to agree to reinstate the contract; and amend the contract as provided by this bill.

Authorizes a holder to require a retail buyer to insure the commercial vehicle purchased under a retail installment transaction and accessories and related goods subject to the holder's security interest.

Authorizes the holder to offer to provide insurance on a commercial vehicle purchased under a retail installment transaction and accessories and related goods subject to the holder's security interest, regardless of whether the holder requires a retail buyer to insure the commercial vehicle.

Requires the insurance required by the holder, and the premiums or charges for any insurance that is provided by the holder, to bear a reasonable relationship to the amount, term, and conditions of the retail installment contract; and the existing hazards or risk of loss, damage, or destruction.

Prohibits any insurance from covering unusual or exceptional risks or providing coverage not ordinarily included in policies issued to the public or for commercial purposes.

Authorizes the holder to include the cost of the insurance as a separate charge in the contract and a retail installment contract to include as a separate charge an amount for certain insurance coverages.

Authorizes a holder to require a retail buyer to provide credit life insurance and credit health and accident insurance.

Authorizes the holder to offer to provide credit life insurance and credit health and accident insurance, regardless of whether the holder requires a retail buyer to provide the insurance.

Authorizes a retail seller to offer involuntary unemployment insurance to the buyer at the time the contract is negotiated or executed.

Prohibits at any time the total amount of the policies of credit life insurance in force on one retail buyer on one retail installment contract from exceeding the total amount repayable under the contract; and the greater of the scheduled or actual amount of unpaid indebtedness if the indebtedness is repayable in substantially equal installments.

Prohibits at any time the total amount of the policies of credit health and accident insurance in force on one retail buyer on one retail installment contract from exceeding the total amount payable under the contract, and the amount of each periodic indemnity payment from exceeding the scheduled periodic payment on the indebtedness.

Requires the holder, if insurance is required in connection with a retail installment contract, to give to the retail buyer a written statement that clearly and conspicuously states insurance is required in connection with the contract; and the buyer as an option may furnish the required insurance through an existing policy of insurance owned or controlled by the buyer, or an insurance policy obtained through an insurance company authorized to do business in this state.

Requires that the retail installment contract or a separate writing, if liability insurance coverage for bodily injury and property damage caused to others is not included in a retail installment contract, to contain, in at least 10-point type that is boldfaced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included.

Authorizes the holder, if a retail buyer fails to present to the holder reasonable evidence that the buyer has obtained or maintained a coverage required by the retail installment contract, to obtain substitute insurance coverage that is

substantially equal to or more limited than the coverage required; and add the amount of the premium advanced for the substitute insurance to the unpaid balance of the contract.

Provides that substitute insurance coverage is authorized at the holder's option to be limited to coverage only of the interest of the holder or the interest of the holder and the buyer; and is required to be written at lawful rates in accordance with the Insurance Code by a company authorized to do business in this state.

Requires the holder, if insurance for which a charge is included in or added to a retail installment contract is canceled, adjusted, or terminated, to, at the holder's option apply the amount of the refund for unearned insurance premiums received by the holder to replace required insurance coverage; or credit the refund to the final maturing installments of the retail installment contract.

Provides that any gain or advantage to the holder or the holder's employee, officer, director, agent, general agent, affiliate, or associate from insurance or the provision or sale of insurance is not an additional charge or additional time price differential in connection with a retail installment contract except as specifically provided by Chapter 353.

Authorizes a retail buyer and holder to agree to add to the unpaid balance of a retail installment contract premiums for insurance policies obtained after the date of the retail installment transaction for coverages of the types allowed, including premiums for the renewal of a policy included in the contract.

Provides that if a premium is added to the unpaid balance of a retail installment contract, the rate applicable to the time price differential agreed to in the retail installment contract remains in effect and shall be applied to the new unpaid balance, or the contract may be rescheduled, without reclassifying the commercial vehicle by its year model at the time of the amendment.

Prohibits the financing entity, if a retail installment contract presented to a financing entity for acceptance includes any insurance coverage, from directly or indirectly requiring, as a condition of its agreement to finance the commercial vehicle, that the retail buyer purchase the insurance coverage from a particular source.

Authorizes a person to acquire a retail installment contract or an outstanding balance under a contract from another person on the terms, including the price, to which they agree.

Provides that, notwithstanding any other law of this state, a person acquiring or assigning a retail installment contract, or any balance under a contract, does not have a duty to disclose to any other person the terms on which a contract or balance under a contract is acquired or assigned, including the consideration for the acquisition or assignment and any discount or difference between the rates, charges, or balance under the contract and the consideration rates, charges, or balance acquired or assigned, as applicable.

Provides that notice to a retail buyer of an assignment or negotiation of a retail installment contract or an outstanding balance under the contract or a requirement that the retail seller be deprived of dominion over payments on a retail installment contract or over the commercial vehicle if returned to or repossessed by the retail seller is not necessary for a written assignment or negotiation of the contract or balance to be valid as against a creditor, subsequent purchaser, pledgee, mortgagee, or lien claimant of the retail seller.

Provides that unless a retail buyer has notice of the assignment or negotiation of the buyer's retail installment contract or an outstanding balance under the contract, a payment by the buyer to the most recent holder known to the buyer is binding on all subsequent holders.

Prohibits a retail seller from promising to pay, pay, or otherwise tender cash to a retail buyer as a part of a transaction under Chapter 353 unless specifically authorized by Chapter 353.

Authorizes a retail seller to pay, promise to pay, or tender cash or another thing of value to the manufacturer, distributor, or retail buyer of the product if the payment, promise, or tender is made in order to participate in a financial incentive program offered by the manufacturer or distributor of the vehicle to the buyer.

Authorizes a retail seller, in connection with a retail installment transaction to advance money to retire an amount owed against a motor vehicle used as a trade-in or a motor vehicle owned by the buyer that has been declared a total loss by the buyer's insurer or the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction; and finance repayment of that money in a retail installment contract.

Authorizes a retail seller to pay in cash to the retail buyer any portion of the net cash value of a motor vehicle owned by the buyer and used as a trade-in in a transaction involving the sale of a commercial vehicle.

Requires the holder of a retail installment contract, on written request of a retail buyer, to give or send to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract.

Provides that the holder of a retail installment contract who gives the retail buyer or the buyer's designee outstanding balance information relating to the contract is bound by that information and is required to honor that information for a reasonable time.

Requires the holder, if the retail buyer or the buyer's designee tenders to the holder as payment in full an amount derived from that outstanding balance information, to accept the amount as payment in full; and release the holder's lien against the commercial vehicle within a reasonable time not later than the 10th day after the date on which the amount is tendered.

Requires a retail seller to pay in full the outstanding balance of a vehicle traded in to the retail seller as part of the retail installment transaction not later than the 25th day after the date that the retail installment contract is signed by the retail buyer and the retail buyer receives delivery of the commercial vehicle; and the retail seller receives delivery of the motor vehicle traded in and the necessary and appropriate documents to transfer title from the buyer.

Prohibits a retail installment contract from containing a power of attorney to confess judgment in this state or an assignment of wages.

Prohibits a retail installment contract from authorizing the holder or a person acting on the holder's behalf to enter the retail buyer's premises in violation of Chapter 9 (Secured Transactions), Business & Commerce Code, or commit a breach of the peace in the repossession of the commercial vehicle; or containing, or providing for the execution of, a power of attorney by the retail buyer appointing, as the buyer's agent in the repossession of the vehicle, the holder or a person acting on the holder's behalf.

Prohibits a retail installment contract from providing for a waiver of the retail buyer's rights of action against the holder or a person acting on the holder's behalf for an illegal act committed in the collection of payments under the contract, or the repossession of the commercial vehicle; or providing that the retail buyer agrees not to assert against the holder a claim or defense arising out of the sale.

Authorizes a retail buyer, with the written consent of the holder, to transfer at any time the buyer's equity in the commercial vehicle subject to the retail installment contract to another person.

Authorizes the holder to charge for the transfer of equity an amount that does not exceed \$25 for a commercial vehicle that is not a heavy commercial vehicle; or \$50 for a heavy commercial vehicle.

Prohibits a person from acting as a holder under Chapter 353 unless the person is an authorized lender or a credit union; or holds a license issued under Chapter 348 or Chapter 353.

Requires a person who is required to hold a license under Chapter 353 to ensure that each office, at which retail installment transactions are made, serviced, held, or collected under Chapter 353 is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions in accordance with Chapter 353 and rules implementing Chapter 353.

Sets forth provisions relating to the application for a license under Chapter 353; investigation and approval or denial of an application by the consumer credit commissioner; disposition of fees on denial of application; annual license fee; expiration of license; license suspension or revocation; reinstatement of suspended license; issuance of new license after revocation; surrender of license; and the transfer or assignment of license.

Authorizes the Finance Commission of Texas (finance commission) to adopt rules to enforce Chapter 353.

Requires the consumer credit commissioner to recommend proposed rules to the finance commission.

Authorizes the consumer credit commissioner or the commissioner's representative, to discover a violation of Chapter 353 or to obtain information required under Chapter 353, to investigate the records, including books, accounts, papers, and correspondence, of a person, including a license holder, who the commissioner has reasonable cause to believe is violating Chapter 353, regardless of whether the person claims to not be subject to Chapter 353.

Authorizes the consumer credit commissioner and the Texas Department of Motor Vehicles, to ensure consistent enforcement of law and minimization of regulatory burdens, to share information, including criminal history information, relating to a person licensed under Chapter 353.

Public-Private Partnerships for Civil Works Projects—H.B. 2729

by Representative Callegari—Senate Sponsor: Senator Watson

Local governments are authorized under the Transportation Code to enter into public-private partnerships with private entities for the delivery of transportation projects. Some local government bond attorneys are hesitant to approve bond issues because they are unsure whether there is statutory authorization. This bill:

Authorizes a local governmental entity to contract with a private entity to act as the local governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of a civil works project or an improvement to real property.

Requires a local governmental entity contracting under provisions of this bill to select the private entity based on the private entity's qualifications and experience and enter into a project development agreement with the private entity.

Requires the selected private entity to comply with Chapters 1001 (Engineers) and 1051 (Texas Board of Architectural Examiners; General Provisions Affecting Architects, Landscape Architects, and Interior Designers; Provisions Affecting Only Architects), Occupations Code, all laws related to procurement of professional services under Chapter 2254 (Professional and Consulting Services), Government Code, and all laws relating to procurement that apply to the local governmental entity that selected the private entity.

Refund Policy at Career Schools and Colleges—H.B. 2784

by Representative Alonzo—Senate Sponsor: Senator Hinojosa

There has been some concern that the current refund policy for courses at career schools and colleges is outdated and overly complex. Students and staff often have difficulty in calculating the proper refund amount for a student who enters a residence program or a synchronous distance education course and subsequently terminates enrollment. This bill:

Requires each career school or college to maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter a program in which the student is enrolled or withdraws or is discontinued from the program at any time prior to completion, to provide, among other things, that:

- refunds for resident programs and synchronous distance education courses or programs will be based on the period of enrollment computed on the basis of course or program time;
- the effective date of termination for refund purposes in residence programs and synchronous distance education courses or programs will be the earliest of the last date of attendance, if the student is terminated by the school or college; the date of receipt of written notice of withdrawal from the student; or 10 school days following the last date of attendance;
- if tuition and fees are collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence career school or college, not more than \$100 shall be retained by the school or college;
- for the student who enters a residence program or a synchronous distance education course and who withdraws or is otherwise terminated, the school or college is authorized to retain not more than \$100 of any administrative fees charged and the minimum refund of the remaining tuition and fees will be the pro rata portion of tuition, fees, and other charges that the number of hours remaining in the portion of the course or program for which the student has been charged after the effective date of termination bears to the total number of hours in the portion of the course or program for which the student has been charged, except that a student is prohibited from collecting a refund if the student has completed 75 percent or more of the total number of hours in the portion of the program for which the student has been charged on the effective date of termination;
- refunds based on enrollment in residence and synchronous distance education courses or programs will be totally consummated within 60 days after the effective date of termination;
- refunds for asynchronous distance education courses or programs will be computed on the basis of the number of lessons in the course or program;
- the effective date of termination for refund purposes in asynchronous distance education courses or programs will be the earliest of the date of notification to the student if the student is terminated; the date of receipt of written notice of withdrawal from the student; or the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled;
- if tuition and fees are collected before any courses for a program have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the program, not more than \$50 shall be retained by the school or college;
- in cases of termination or withdrawal after the student has begun the asynchronous distance education course or program, the school or college is authorized to retain \$50 of tuition and fees, and the minimum refund policy is required to provide that the student will be refunded the pro rata portion of the remaining tuition, fees, and other charges that the number of courses completed and serviced by the school or college bears to the total number of courses in the program; and
- refunds based on enrollment in asynchronous distance education schools or colleges will be totally consummated within 60 days after the effective date of termination.

Requires a career school or college to record a grade of "incomplete" for a student who withdraws during the portion of a course or program for which the student is not eligible to collect a refund if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status.

Authorizes a student who receives a grade of incomplete to re-enroll in the course or program during the 12-month period following the date the student withdraws and to complete those incomplete subjects without payment of additional tuition for that portion of the course or program.

Requires the career school or college to maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the program or withdraws or is discontinued from the program at any time before completion of the program and requires that the policy provide, among other things, that refunds are based on the period of enrollment computed on the basis of course or program time; and the student will be refunded the pro rata portion of tuition, fees, and other charges that the number of hours remaining in the portion of the program for which the student has been charged after the effective date of termination bears to the total number of hours in the portion of the program for which the student has been charged.

Select Committee on Economic Development—H.B. 2785

by Representative John Davis et al.—Senate Sponsor: Senator Shapiro

Texas has developed a variety of economic development incentive programs that are administered by several state agencies and that are targeted to certain audiences and goals. These incentives have evolved without a comprehensive review of their effectiveness, how they compare with other states' efforts, whether they appropriately target the correct economic activity, how they should be evaluated, or how they can be coordinated with other incentives to be most effective. The Select Committee on Economic Development (SCED) is created to evaluate existing economic development programs in Texas and those of other states and to make recommendations for modifications or eliminations of some of the programs to the legislature by January 2013. This bill:

Provides that the purpose of this bill is to ensure that economic development initiatives in this state are effective in encouraging new investment, employment, and income and in retaining existing facilities and employment.

Requires that the economic development incentives be appropriately sized and directed and administratively efficient and allow this state to compete with other states.

Provides that it is the intent of the legislature to develop objective criteria to evaluate the state's economic development initiatives that reflect sound economic principles appropriately applied in light of the diverse nature of the initiatives and the state's economy.

Sets forth provisions relating to the composition, presiding officer, and meetings of SCED.

Requires SCED to:

- recommend to the legislature an economic development policy for the state;
- conduct a study and make recommendations to the legislature regarding state and local economic development incentives;
- develop criteria for evaluating the effectiveness of existing economic development policies and incentives in this state and make recommendations the committee considers necessary to improve those policies and incentives, taking into account certain aspects;
- consider the benefits of consolidating state and local economic development incentives into a single statewide office or agency;

- evaluate existing state or local economic development incentives and make recommendations regarding the continuation, elimination, or modification of those incentives based on the developed criteria; and
- make recommendations on whether the state should adopt new incentives to better accomplish the state's economic development policy.

Requires SCED, not later than January 1, 2013, to submit a report of the committee's findings, studies, and recommendations to the governor, lieutenant governor, the speaker of the house of representatives, and each member of the legislature.

Requires the Legislative Budget Board, Texas Legislative Council, office of the governor, senate, and house of representatives, on SCED's request, to provide the staff necessary to assist SCED in performing its duties.

Authorizes SCED, if needed to perform the duties of SCED, to request the assistance of a state agency, department, or office and requires the state agency, department, or office to provide SCED with the requested assistance.

Requires that the operating expenses of SCED be paid from available funds of the office of the governor, the senate, and the house of representatives, as agreed to by those entities.

Requires a public member of SCED, when attending SCED meetings, to be allowed the same mileage and per diem as are allowed members of the legislature who attend an SCED meeting when the legislature is not in session.

Provides that SCED is abolished and provisions of the bill expire on September 1, 2013.

Tax Increment Reinvestment Zones—H.B. 2853

by Representative John Davis et al.—Senate Sponsor: Senator Jackson

Legislation is needed to amend Chapter 311 (Tax Increment Financing Act), Tax Code, in order to modernize the chapter by omitting provisions that are no longer used by practitioners today, eliminating certain provisions added as bracketed bills in the past that are no longer necessary, and making substantive changes that will enhance the ability of a local government to engage in economic development through a tax increment reinvestment zone (TIRZ). This bill:

Redefines "project costs."

Requires the governing board of a municipality or county, before adopting an ordinance or order designating a TIRZ to prepare a preliminary reinvestment zone financing plan (financing plan).

Deletes existing text requiring a copy of the completed plan to be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.

Requires an area, to be designated as a TIRZ, to, among other things, substantially arrest or impair the sound growth of the municipality or county designating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of certain circumstances; and be predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county.

Prohibits a municipality from designating a TIRZ if more than 30 percent of the property in the proposed TIRZ, excluding property that is publicly owned, is used for residential purposes; or the total appraised value of taxable real property in the proposed TIRZ and in existing TIRZ exceeds 25 percent of the total appraised value of taxable real

property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more or 50 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of less than 100,000.

Prohibits a municipality from changing the boundaries of an existing TIRZ to include property in excess of the restrictions on composition of a TIRZ.

Authorizes the governing body of the municipality or county that designated a TIRZ by ordinance or resolution or by order or resolution, respectively, to extend the term of all or a portion of the TIRZ after notice and hearing in the manner provided for the designation of the TIRZ.

Provides that a taxing unit other than the municipality or county that designated the TIRZ is not required to participate in the TIRZ or portion of the TIRZ for the extended term unless the taxing unit enters into a written agreement to do so.

Authorizes a municipality or county to exercise any power necessary and convenient to carry out provisions of this bill, including, among other powers, the power to acquire real property by purchase, condemnation, or other means and sell real property, on the terms and conditions and in the manner it considers advisable, to implement project plans.

Authorizes each taxing unit other than the municipality or county that designated the TIRZ that levies taxes on real property in the TIRZ to appoint one member of the board of directors of a TIRZ (board) if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the TIRZ.

Authorizes the governing body of the municipality or county that designated the TIRZ, if the TIRZ was designated in a petition requesting that the area be designated as a TIRZ, to provide that the board consists of nine members appointed as provided, unless more than nine members are required to comply with provisions of this bill.

Authorizes each taxing unit that levies taxes on real property in the TIRZ, other than the municipality or county that designated the TIRZ, to appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the TIRZ.

Authorizes the municipality or county to appoint a number of members of the board such that the board comprises nine members, if fewer than seven taxing units other than the municipality or county that designated the TIRZ are eligible to appoint members of the board of directors of the TIRZ.

Authorizes the municipality or county, if at least seven taxing units other than the municipality or county that designated the TIRZ are eligible to appoint members of the board of directors of the TIRZ, to appoint one member of the board.

Sets forth requirements for an individual to be eligible for appointment to the board by the governing body of the municipality or county that designated the TIRZ.

Authorizes the required approval of the governing body of the municipality or county that designated the TIRZ to be granted in an ordinance, in the case of a TIRZ designated by a municipality, or in an order, in the case of a TIRZ designated by a county, approving a project plan or financing plan or approving an amendment to a project plan or financing plan.

Requires the board of directors of a TIRZ to prepare and adopt a project plan and a financing plan for the TIRZ and to submit the plans to the governing body of the municipality or county that designated the TIRZ, and requires the project plan and the financing plan to include certain information.

Provides that a school district that participates in a TIRZ is not required to increase the percentage or amount of the tax increment to be contributed by the school district because of an amendment to the project plan or financing plan for the TIRZ unless the governing body of the school district by official action approves the amendment.

Provides that, unless specifically provided otherwise in the plan, all amounts contained in the project plan or financing plan, including amounts of expenditures relating to project costs and amounts relating to participation by taxing units, are considered estimates and do not act as a limitation on the described items, but prohibits the amounts contained in the project plan or financing plan from varying materially from the estimates.

Provides that the captured appraised value of real property taxable by a taxing unit for a year is the total taxable value of all real property taxable by the unit and located in a TIRZ for that year less the tax increment base of the unit.

Provides that the tax increment base of a taxing unit is the total taxable value of all real property taxable by the unit and located in a TIRZ for the year in which the TIRZ was designated.

Provides that if the boundaries of a TIRZ are enlarged, the tax increment base is increased by the taxable value of the real property added to the TIRZ for the year in which the property was added. and if the boundaries of a TIRZ are reduced, the tax increment base is reduced by the taxable value of the real property removed from the TIRZ for the year in which the property was originally included in the TIRZ boundaries.

Provides that if the municipality that designates a TIRZ does not levy an ad valorem tax in the year in which the TIRZ is designated, the tax increment base is determined by the appraisal district in which the TIRZ is located using assumptions regarding exemptions and other relevant information provided to the appraisal district by the municipality.

Authorizes an agreement between a taxing unit and with the governing body of the municipality or county that designated the TIRZ, in addition to any other terms to which the parties may agree, to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation is authorized to be computed with respect to a base year later than the original base year of the TIRZ.

Requires a tax increment bond or note to mature on or before the date by which the final payments of tax increment into the tax increment fund are due.

Requires the governing body of a municipality or county, on or before the 150th day following the end of the fiscal year of the municipality or county, to submit to the chief executive officer of each taxing unit that levies property taxes on real property in a TIRZ created by the municipality or county a report on the status of the TIRZ.

Requires the municipality or county to send a copy of a report to the comptroller of public accounts.

Provides that a governmental act or proceeding of a municipality or county, the board of directors of a TIRZ, or an entity relating to the designation, operation, or administration of a TIRZ or the implementation of a project plan or financing plan is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if the third anniversary of the effective date of the act or proceeding has expired and a lawsuit to annul or invalidate the act or proceeding has not been filed on or before the later of that second anniversary or August 1, 2011.

Does not apply to an act or proceeding that was void at the time it occurred; an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred; a rule that, at the time it was passed, was preempted by a statute of this state or the United States; or a matter that on

the effective date of the Act enacting this section is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

Reenacts Section 403.302(d) (defining "taxable value"), Government Code, as amended by Chapters 1186 (H.B. 3676) and 1328 (H.B. 3646), Acts of the 81st Legislature, Regular Session, 2009.

Amends Section 403.302(m), Government Code, as added by Chapter 1186 (H.B. 3676), Acts of the 81st Legislature, Regular Session, 2009, to conform to Section 80, Chapter 1328 (H.B. 3646), Acts of the 81st Legislature, Regular Session, 2009, to provide that Subsection (d)(9), rather than Subsection (d)(10), does not apply to property that was the subject of an application under Subchapter B or C, Chapter 313, Tax Code, made after May 1, 2009, that the comptroller recommended should be disapproved.

Repeals Sections 311.003(e) (requiring the governing body of the municipality or county, not later than the 60th day before the date of the public hearing, to notify in writing the governing body of each other taxing unit that levies real property taxes in the proposed TIRZ that it intends to establish the TIRZ), (f) (authorizing a taxing unit to request additional information from the governing body of the municipality or county proposing to designate a TIRZ), and (g) (requiring each taxing unit that levies real property taxes in the proposed TIRZ, not later than the 15th day after the date on which the notice required is given, to designate a representative to meet with the governing body of the municipality or county proposing to designate a TIRZ to discuss the project plan and the financing plan and to notify the governing body of the municipality or county of its designation), Tax Code.

Repeals Section 311.006(c) (prohibiting a municipality from creating a TIRZ or changing the boundaries of an existing TIRZ if the proposed TIRZ or proposed boundaries of the TIRZ contain more than 15 percent of the total appraised value of real property taxable by a county or school district), Tax Code.

Repeals Sections 311.013(d) (providing that if the TIRZ is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the TIRZ after three years from the date the TIRZ is created unless certain conditions exist or have been met within the three-year period) and (e) (providing that if the TIRZ was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the TIRZ after September 1, 1986, unless certain conditions existed or were met before September 1, 1986), Tax Code.

Debt Cancellation Agreements—H.B. 2931

by Representative Woolley—Senate Sponsor: Senator Van de Putte

Debt cancellation agreements are noninsurance products that may be purchased by consumers of motor vehicles to cover the difference between a vehicle's value and the amount owed to a lender in the event of theft or total loss. These agreements are regulated in some manner in over 40 other states and balance consumer protections with a regulatory framework that allows debt cancellation agreements to be offered. This bill:

Authorizes a retail seller, in connection with a retail installment transaction, to offer to the retail buyer a debt cancellation agreement, including a guaranteed asset protection waiver or similarly named agreement.

Applies only to a debt cancellation agreement that includes insurance coverage as part of the retail buyer's responsibility to the holder.

Requires the amount charged for a debt cancellation agreement made in connection with a retail installment contract to be created in good faith and be commercially reasonable.

Provides that the debt cancellation agreement becomes a part of or a separate addendum to the retail installment contract and remains a term of the retail installment contract on the assignment, sale, or transfer by the holder.

Requires that a debt cancellation agreement, in addition to other requirements, fully disclose all provisions permitting the exclusion of loss or damage including certain acts, if applicable.

Requires that a debt cancellation agreement state certain information.

Requires that debt cancellation agreement forms be submitted to the consumer credit commissioner (commissioner) for approval.

Authorizes debt cancellation agreement forms to include additional language to supplement the terms of the debt cancellation agreement as required by this bill.

Provides that if a debt cancellation agreement form is provided to the commissioner for approval, the commissioner has 45 days to approve the form or deny approval of the form and provides that if after the 45th day the commissioner does not deny the form, the form is considered approved.

Authorizes the commissioner to deny approval of a form only if the form excludes the language required by this bill or contains any inconsistent or misleading provisions.

Authorizes all form denials to be appealed to the Finance Commission of Texas.

Requires the retail seller, if a retail buyer purchases a debt cancellation agreement, to provide to the retail buyer a true and correct copy of the agreement not later than the 10th day after the date of the retail installment contract.

Requires a holder to comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.

Prohibits a debt cancellation agreement from knowingly being offered by a retail seller if the retail installment contract is already protected by gap insurance, or the purchase of the debt cancellation agreement is required for the retail buyer to obtain the extension of credit.

Requires the sale of a debt cancellation agreement to be for a single payment.

Requires a holder that offers a debt cancellation agreement to report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

Requires that money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement be held by the holder or administrator in a fiduciary capacity.

Requires a retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract to maintain documents relating to the agreement that come into the retail seller's possession; and on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

Sets forth requirements for a refund or credit of the debt cancellation agreement fee.

Reasonable Relation of Certain Transactions—H.B. 2991

by Representative Deshotel—Senate Sponsor: Senator Carona

A choice of law clause is a contract term stating that any dispute arising under the contract shall be handled in accordance with the law of a particular jurisdiction. In 1993, a provision was added to the Business & Commerce Code to address certain contractual choice law agreements. Since then, the provision has become outdated and needs to be revised to be compatible with current business practices and technology. This bill:

Provides that a transaction bearing a reasonable relation to a particular jurisdiction includes:

- a transaction in which all or part of the subject matter of the transaction is related to the governing documents or internal affairs of an entity formed under the laws of that jurisdiction, such as an agreement among members or owners of the entity, an agreement or option to acquire a membership or ownership interest in the entity, and the conversion of debt or other securities into an ownership interest in the entity; and any other matter relating to rights or obligations with respect to the entity's membership or ownership interests; and
- a transaction in which all or part of the subject matter of the transaction is a loan or other extension of credit in which a party lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of at least \$25 million; at least three financial institutions or other lenders or providers of credit are parties to the transaction; the particular jurisdiction is in the United States; and a party to the transaction has more than one place of business and has an office in that particular jurisdiction.

Requires that the transaction, if a transaction bears a reasonable relation to a particular jurisdiction at the time the parties enter into the transaction, continue to bear a reasonable relation to that jurisdiction regardless of any subsequent change in facts or circumstances with respect to the transaction, the subject matter of the transaction, or any party to the transaction; or any modification, amendment, renewal, extension, or restatement of any agreement relating to the transaction.

Registration and Protection of Trademarks—H.B. 3141

by Representative Hartnett—Senate Sponsor: Senator Carona

Texas' current trademark statute is largely based on the 1949 version of the Model State Trademark Act. H.B. 3141 amends the Business & Commerce Code to bring Texas trademark laws into conformance with the most recent version of the Model State Trademark Act and to align Texas law with federal trademark infringement and dilution law. This bill:

Defines "applicant," "dilution," "dilution by blurring," "dilution by tarnishment," "mark," "person," "registrant," "service mark," "trade name," and "trademark."

Provides that a mark is considered to be in use in this state in connection with goods when the mark is placed in any manner on the goods; containers of the goods; displays associated with the goods; tags or labels affixed to the goods; or documents associated with the goods or sale of the goods, if the nature of the goods makes placement impracticable; and the goods are sold or transported in commerce in this state.

Provides that a mark is considered to be in use in this state in connection with services when the mark is used or displayed in this state in connection with selling or advertising the services; and the services are rendered in this state.

Provides that a mark made merely to reserve a right in the mark is not considered to be in use in this state in connection with goods or services.

Provides that a mark is considered to be abandoned when the mark's use has been discontinued with intent not to resume the use; or the owner's conduct, including an omission or commission of an act, causes the mark to lose its significance as a mark.

Provides that a mark that distinguishes an applicant's goods or services from those of others is registrable unless the mark:

- consists of or comprises matter that is immoral, deceptive, or scandalous;
- consists of or comprises matter that may disparage, falsely suggest a connection with, or bring into contempt or disrepute a person, whether living or dead; an institution; a belief; or a national symbol;
- depicts, comprises, or simulates the flag, the coat of arms, or other insignia of the United States; a state; a municipality; or a foreign nation;
- consists of or comprises the name, signature, or portrait of a particular living individual who has not consented in writing to the mark's registration;
- when used on or in connection with the applicant's goods or services is merely descriptive or deceptively misdescriptive of the applicant's goods or services, or is primarily geographically descriptive or deceptively misdescriptive of the applicant's goods or services;
- is primarily merely a surname; or
- is likely to cause confusion or mistake, or to deceive, because, when used on or in connection with the applicant's goods or services, it resembles a mark registered in this state, or an unabandoned mark registered with the United States Patent and Trademark Office.

Sets forth provisions for the registration of a mark, including provisions relating to the application for registration, filing and examination of application, amendment to application, disclaimer of unregistrable components, concurrent applications for the same or similar mark, denial of registration, certificate of registration, term and renewal of registration, record and proof of registration, assignment of mark and registration, recording of other instruments that relate to a mark, change of registrant's name, and cancellation of registration.

Requires the secretary of state (SOS) by rule to establish a classification of goods and services for the convenient administration of provisions of this bill and requires the classification of goods and services, to the extent practicable, to conform to the classification of goods and services adopted by the United States Patent and Trademark Office.

Prohibits the classifications from limiting or expanding an applicant's or registrant's rights.

Requires SOS by rule to prescribe the amount of fees payable for the various applications and for the filing and recording of those applications for related services.

Provides that a person who procures for the person or another the filing of an application or the registration of a mark by knowingly making a false or fraudulent representation or declaration, oral or written, or by any other fraudulent means, is liable to pay all damages sustained as a result of the filing or registration.

Provides that a person commits an infringement if the person without the registrant's consent, uses anywhere in this state a reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with selling, distributing, offering for sale, or advertising goods or services when the use is likely to deceive or cause confusion or mistake as to the source or origin of the goods or services; or reproduces, counterfeits, copies, or colorably imitates a registered mark and applies the reproduction, counterfeit, copy, or colorable imitation to a label, sign, print, package, wrapper, receptacle, or advertisement intended to be used in selling or distributing, or in connection with the sale or distribution of, goods or services in this state.

Entitles the owner of a mark that is famous and distinctive, inherently or through acquired distinctiveness, in this state, subject to the principles of equity, to enjoin another person's commercial use of a mark or trade name that begins after the mark has become famous if use of the mark or trade name is likely to cause the dilution of the famous mark.

Authorizes an owner of a registered mark to bring an action to enjoin the manufacture, use, display, or sale of any counterfeits or imitations of a mark.

Prohibits a person, without the permission of the United States Olympic Committee, from, for the purpose of trade, inducing the sale of goods or services, or promoting a theatrical exhibition, athletic performance, or competition, using:

- the symbol of the International Olympic Committee, consisting of five interlocking rings;
- the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief;
- a trademark, trade name, sign, symbol, or insignia falsely representing association with or authorization by the International Olympic Committee or the United States Olympic Committee; or
- the words "Olympic," "Olympiad," or "Citius Altius Fortius" or a combination or simulation of those words that tends to cause confusion or mistake, to deceive, or to suggest falsely a connection with the United States Olympic Committee or an Olympic activity.

Requires that an action to require cancellation of a registered mark or in mandamus to compel registration of a mark be brought in a district court of Travis County and requires that the proceeding, in an action to compel registration of a mark, be based solely on the record before SOS.

Prohibits SOS, in an action for cancellation, from being made a party to the proceeding but requires that SOS be notified of the filing of the complaint by the clerk of the court in which the action is filed and be given the right to intervene in the action.

Authorizes service, in an action brought against a nonresident registrant, to be made on SOS as agent for service of process of the registrant in accordance with the procedures established for service on foreign corporations and business entities under the Business Organizations Code.

Provides that no registration of a mark adversely affects common law rights acquired prior to registration.

Prohibits, however, any common law rights as against the registrant of the mark, during any period when the registration of a mark is in force and the registrant has not abandoned the mark, from being acquired.

Categories of Projects for Type A Economic Development Corporations—H.B. 3302

by Representatives Reynolds and Zerwas—Senate Sponsor: Senator Hegar

Under current law, a municipality may devote up to one-half of one percent of its two percent discretionary local sales tax to one or both of its economic development corporations, Type A or Type B, but cannot devote more than one-half of one percent of sales tax revenue to either, and may not have two corporations of one type. Type A corporations are limited to economic development projects that primarily promote new and expanded industrial and manufacturing activities. Type A corporations in small Texas municipalities have difficulty competing with Type A corporations in larger municipalities for industrial and manufacturing projects because larger municipalities have a greater sales tax base and therefore greater revenue with which to attract such projects. For many smaller municipalities this means that their Type A corporations have accumulated balances for which they have no authorized use. This bill:

Applies only to a Type A corporation the creation of which was authorized by a municipality that has also authorized the creation of a Type B corporation and that has a population of 7,500 or less.

Authorizes a Type A corporation to which this bill applies, notwithstanding Section 504.152 (Election to Authorize Projects Applicable to Type B Corporations), if permitted by ordinance of the authorizing municipality, to undertake any project that a Type B corporation, the creation of which was authorized by the same municipality, is authorized to undertake.

Authorizes the governing body of an authorizing municipality to by ordinance revoke any authority granted to a Type A corporation and provides that such revocation does not affect the authority of a corporation to complete a project already undertaken or the obligation to repay any debt incurred in connection with a project.

Temporary Private Club Permit—H.B. 3329

by Representatives Keffer and Carter—Senate Sponsor: Senator Fraser

TABC has suggested that, if a facility used for a fund-raising event for a nonprofit corporation, such as an annual barn dance sponsored by a Boys and Girls Club, is located in the dry part of a county, having alcoholic beverages available for sale at the event is currently not allowed. This bill:

Authorizes TABC to issue a daily temporary private club permit to a nonprofit corporation for a fund-raising event for the nonprofit corporation that lasts not longer than eight hours.

Prohibits TABC from issuing more than two daily temporary private club permits in each calendar year for events sponsored by the same party, association, or organization.

Authorizes a daily temporary private club permit to only be issued in the county where the private club registration permit is issued.

Authorizes a daily temporary private club permit to only be issued in the county where the nonprofit corporation is located.

Authorizes a nonprofit corporation to be issued only one daily temporary private club permit in each calendar year.

Requires TABC by rule to establish the procedure for obtaining and operating under a daily temporary private club permit.

Quality Indicators for Subsidized Child Care Providers—S.B. 264

by Senator Zaffirini—House Sponsor: Representative Guillen

Currently, Texas Workforce Commission local workforce development boards are not required to list quality indicators for subsidized child care providers, including the Texas School Readiness Certification System, Texas Rising Star Provider, and nationally accredited programs, in materials for parents, families, and caregivers to support their decision-making while choosing child care. This bill:

Requires each local workforce development board to provide information on quality child care indicators for each licensed or registered child care provider in the area.

Requires each local workforce development board to determine the manner in which to provide the required information.

Major Events Trust Fund—S.B. 309

by Senator Harris—House Sponsor: Representative Diane Patrick

The Major Events Trust Fund (METF) is a tool used to attract major events to venues located in Texas. The METF applies local and state revenues generated from sales and use, automobile rental, and alcoholic beverage taxes by certain major events to pay the costs incurred from hosting the events. S.B. 309 adds certain events to the list of eligible projects under the statute. This bill:

Redefines "event" to include the Academy of Country Music Awards, the National Cutting Horse Association Triple Crown, or a national political convention of the Republican National Committee or the Democratic National Committee and "site selection organization" to include the Academy of Country Music, the National Cutting Horse Association, or the Republican National Committee or the Democratic National Committee.

Requires the comptroller of public accounts (comptroller) using existing resources, not later than 18 months after the last day of an event eligible for disbursements from the METF for costs associated with the event, to complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event and related activities and to post on the comptroller's Internet website the results of the study.

Laws Governing Limited Liability Companies—S.B. 323

by Senator Carona—House Sponsor: Representative Elkins

The Business Organizations Code establishes that a member or manager of a Texas limited liability company (LLC) is not liable for the obligations of the LLC. Current provisions do not explicitly state that a member or manager of an LLC is entitled to the same level of liability protection as an owner of a corporation. Two out-of-state courts have recently held that the liability shield for an LLC is less protective than that available to a for-profit corporation. This bill:

Provides that subject to Section 101.114 (Liability for Obligations), Sections 21.223 (Limitation of Liability for Obligations), 21.224 (Preemption of Liability), 21.225 (Exceptions to Limitations), and 21.226 (Pledges and Trust Administrators), Business Organizations Code, apply to a limited liability company and the company's members, owners, assignees, affiliates, and subscribers.

Provides that for purposes of the application of the above section:

- a reference to "shares" includes "membership interests";
- a reference to "holder," "owner," or "shareholder" includes a "member" and an "assignee";
- a reference to "corporation" or "corporate" includes a "limited liability company";
- a reference to "directors" includes "managers" of a manager-managed limited liability company and "members" of a member-managed limited liability company;
- a reference to "bylaws" includes "company agreement"; and
- the reference to "Sections 21.157-21.162" in Section 21.223(a)(1) (relating to certain persons not being held liable to the corporation or its obligees with respect to certain shares or obligations) refers to the provisions of Subchapter D (Shares, Options, and Convertible Securities) Chapter 101 (Limited Liability Companies), Business Organizations Code.

Maximum Capacity of Wine Sold to a Retail Dealer—S.B. 351

by Senator Williams—House Sponsor: Representative Deshotel

Current law sets 4.9 gallons as the capacity limit at which a person may sell wine to a retail dealer. Increasing this capacity limit would allow certain businesses in Texas to provide vinous liquor by the keg to restaurants and other vendors and allow businesses to capitalize on new technologies and advances in the packaging of wine that reduce delivery costs, require less storage space, minimize spoilage, and that are more environmentally friendly. This bill:

Prohibits a person from selling wine to a retail dealer in a container with a capacity greater than eight gallons.

Sale of Wine at a Winery Festival—S.B. 438

by Senator Nelson—House Sponsor: Representative Geren

The 81st Legislature authorized Texas wineries to sell wine at farmers' markets and festivals subject to rules set forth by TABC. By statute, wineries are not allowed to sell wine at these locations for more than three consecutive days or more than five days in a month. Since then, TABC has noted the difficulty of enforcing those provisions. This bill:

Prohibits the holder of a winery festival permit from offering wine for sale on more than four days at the same location, rather than for more than five days within any 30-day period or on more than three consecutive days at the same location.

Disclosure of Criminal Background Checks for Online Dating Services—S.B. 488

by Senator Van de Putte—House Sponsor: Representative Diane Patrick

Currently, online dating service providers are not required to disclose whether their dating sites conduct criminal background checks. According to the market research firm IBISWORLD, over 20 million Americans participate in Internet dating, the number of users more than doubling in the last five years. Often Texas residents are not informed of the potential risks of participating in Internet dating services. This bill:

Adds Chapter 106 (Internet Dating Safety Act), Business & Commerce Code.

Provides that Chapter 106 does not apply to an Internet service provider serving as an intermediary for the transmission of electronic messages between members of an online dating service provider.

Provides that an online dating service provider conducts a criminal background check on a person if the provider initiates a name search for the person's convictions for any felony offense; any offense the conviction or adjudication of which requires registration as a sex offender; and any offense for which an affirmative finding of family violence was made.

Requires an online dating service provider that offers services to residents of this state and does not conduct a criminal background check on each member before permitting a Texas member to communicate through the provider with another member to clearly and conspicuously disclose to all Texas members that the provider does not conduct criminal background checks.

Requires an online dating service provider that offers services to residents of this state and conducts a criminal background check on each member before permitting a Texas member to communicate through the provider with another member to clearly and conspicuously disclose to all Texas members that the provider conducts a criminal background check on each member before permitting a Texas member to communicate through the provider with another member.

Requires an online dating service provider that offers services to residents of this state and conducts a criminal background check on each member to include on the provider's Internet website:

- a statement of whether the provider excludes from its online dating service all persons identified as having been convicted of a felony offense; an offense the conviction or adjudication of which requires registration as a sex offender; or an offense for which an affirmative finding of family violence was made;
- a statement of the number of years of a member's criminal history that is included in a criminal background check; and
- certain statements relating to the scope and reliability of criminal background checks.

Requires that the required disclosure be stated in bold, capital letters, in at least 12-point type on the online dating service provider's Internet website.

Requires an online dating service provider that offers services to residents of this state to clearly and conspicuously provide a safety awareness notification on the provider's Internet website that includes a list and description of safety measures reasonably designed to increase awareness of safer online dating practices. Sets forth statements as examples of the safety awareness notification.

Provides that an online dating service provider who violates Chapter 106 is liable to the state for a civil penalty in an amount not to exceed \$250 for each Texas member registered with the online dating service provider during the time of the violation.

Costs and Attorney's Fees in Certain Proceedings—S.B. 539

by Senator Carona—House Sponsor: Representative Kleinschmidt

Current law states that a judge is authorized to award costs and reasonable attorney's fees as are equitable and just to a party who has successfully foreclosed on a mechanic's or materialman's lien. Some recent court cases have held that a mechanic's or materialman's lien holder who forecloses on a lien or bond is not entitled to court costs or reasonable attorney's fees. This bill:

Requires, rather than authorizes, the court, in any proceeding to foreclose a lien or to enforce a claim against a bond issued under Subchapter H (Bond to Indemnify Against Lien), I (Bond to Pay Liens or Claims), or J (Lien on Money due Public Works Contractor), Property Code, or in any proceeding to declare that any lien or claim is invalid or unenforceable in whole or in part, to award costs and reasonable attorney's fees as are equitable and just.

Provides that, with respect to a lien or claim arising out of a residential construction contract, the court is not required to order the property owner to pay costs and attorney's fees.

Economic Development Programs of the Lavaca-Navidad River Authority—S.B. 580

by Senator Hegar—House Sponsor: Representative Morrison

The Lavaca-Navidad River Authority (LNRA) is a conservation and reclamation district that was created for the purpose of controlling, storing, preserving, and distributing the storm and flood waters, and the waters of the rivers and streams of Jackson County, and their tributaries, for all useful and beneficial purposes. LNRA presently owns, operates, and maintains Lake Texana and the surrounding lands and recreation facilities and works with other entities in the community to coordinate the maintenance and construction of drainage structures, disposal of wastewater, flood and emergency planning, and law enforcement. However, LNRA's enabling legislation does not include the explicit authority to participate in economic development programs or to partner with other local

governmental entities and nonprofit organizations in community development and economic development projects. This bill:

Authorizes LNRA to sponsor and participate in an economic development program intended to strengthen the economic base and further the economic development of this state.

Provides that a determination by the board of directors of LNRA (board of directors) that an economic development program is intended and expected to accomplish the program's stated purposes is conclusive with respect to whether the program serves certain purposes.

Requires an economic development program to be within the territorial boundaries of LNRA or LNRA's water service area.

Authorizes an economic development program to be established only by formal action of the board of directors.

Authorizes an economic development program to involve the granting or lending of money, services, or property to a person engaged in an economic development activity.

Authorizes LNRA to employ staff and spend its resources, other than money received from an ad valorem tax or a general appropriation, to further an economic development program and apply for and receive money, grants, or other assistance from any source to implement an economic development program.

Authorizes LNRA and any public or private person to enter into an agreement with respect to an economic development program.

Requires LNRA, if LNRA proposes to provide scholarships, grants, loans, or financial assistance to a public fire-fighting organization, to adopt certain guidelines.

Self-Service Storage Facility Liens—S.B. 690

by Senator Carona—House Sponsor: Representative Sid Miller

Under current law, a self-storage facility holds a lien against the contents of a rented unit to secure payment of the rent. Statutory provisions relating to self-storage liens are outdated and do not allow operators or consumers to take advantage of the Internet and e-mail or address a tenant's military status. S.B. 690 moves all provisions relating to self-storage liens to one chapter within the Property Code. This bill:

Provides that that Subchapter B (Building Landlord's Lien), Chapter 54 (Landlord's Liens), Chapter 70 (Miscellaneous Liens), Property Code, and Chapter 181 (Medical Records Privacy), Health and Safety Code, do not apply to a self-service storage facility.

Entitles a member of the Texas State Guard or Texas National Guard who is in military service to the same protections and rights relating to the enforcement of storage liens under the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.) to which a servicemember is entitled.

Requires the lessor, if the tenant fails to satisfy the claim on or before the 14th day after the date the notice is delivered to publish or post notices advertising the sale.

Prohibits the lessor, if the notice is by publication, from selling the property until the 15th day after the date the notice is first published.

Authorizes the lessor, if the notice is by posting, to sell the property after the 10th day after the date the notices are posted.

Requires that the lessor's notice to the tenant of the claim contain, among other things, a statement that if the tenant fails to satisfy the claim on or before the 14th day after the date the notice is delivered, the property may be sold at public auction; and a statement underlined or printed in conspicuous bold print requesting a tenant who is in military service to notify the lessor of the status of the tenant's current military service immediately.

Authorizes a lessor to require written proof of a tenant's military service in the form of documentation from the United States Department of Defense or other documentation reasonably acceptable to the lessor.

Requires the lessor to deliver the notice in person or by e-mail or verified mail to the tenant's last known e-mail or postal address as stated in the rental agreement or in a written notice from the tenant to the lessor furnished after the execution of the agreement.

Prohibits the notice from being sent by e-mail unless a written rental agreement between the lessor and the tenant contains language underlined or in conspicuous bold print that the notice may be given by e-mail if the tenant elects to provide an e-mail address.

Requires the lessor not later than the 30th day after the date the lessor takes possession of the motor vehicle, motorboat, vessel, or outboard motor to enforce a lien, to give written notice of sale to the last known owner and each holder of a lien recorded on the registration or certificate of title of the motor vehicle, motorboat, vessel, or outboard motor or, if the registration or title is outside this state, the owner and each lienholder of record in the location in which the motor vehicle, motorboat, vessel, or outboard motor is registered or titled.

Requires that the required notice be sent by verified mail and requires that the notice include certain information.

Authorizes that the required notice be given by publishing the notice once in a print or electronic version of a newspaper of general circulation in the county in which the motor vehicle, motorboat, vessel, or outboard motor is stored if:

- the lessor submits a written request by verified mail to the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered or titled requesting information relating to the identity of the last known owner of record and any lienholder of record;
- the lessor is advised in writing by the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered or titled that the entity is unwilling or unable to provide information on the last known owner of record or any lienholder of record, or does not receive a response from the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered or titled on or before the 21st day after the date the lessor submits the request;
- the identity of the last known owner of record cannot be determined;
- the registration or title does not contain an address for the last known owner of record; and
- the lessor cannot determine the identities and addresses of the lienholders of record.

Provides that the lessor is not required to publish notice if a correctly addressed notice is sent with sufficient postage and is returned as unclaimed or refused or with a notation that the addressee is unknown or has moved without leaving a forwarding address or the forwarding order has expired.

Authorizes the owner or lienholder, after notice is given to the owner of or the holder of a lien on the motor vehicle, motorboat, vessel, or outboard motor, to take possession of the motor vehicle, motorboat, vessel, or outboard motor by paying all charges due to the lessor before the 31st day after the date the notice is mailed or published.

Authorizes the lessor, if the charges are not paid before the 31st day after the date the notice is mailed or published, as applicable, to sell the motor vehicle, motorboat, vessel, or outboard motor at a public sale and apply the proceeds to the charges.

Provides that a person commits an offense if the person knowingly provides false or misleading information in a notice required by this section. Provides that an offense under this subsection is a Class B misdemeanor.

Repeals Section 59.047 (Additional Procedures for Sale of Certain Property), Property Code.

Business Entities and Associations—S.B. 748

by Senator Carona—House Sponsor: Representative Giddings

The Business Organizations Code, which became effective in 2006, codified provisions of prior law relating to business entities and associations, including provisions of prior law found in the Texas Business Corporation Act, Texas Non-profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Texas Limited Liability Company Act, Texas Revised Limited Partnership Act, Texas Real Estate Investment Trust Act, Texas Uniform Unincorporated Nonprofit Associations Act, Texas Professional Corporation Act, Texas Professional Associations Act, Texas Revised Partnership Act, and Cooperative Associations Act. A number of provisions within the Business Organizations Code have been cumbersome or problematic. This bill:

Authorizes an enterprise, notwithstanding any specified authorization or determination specified, to pay or reimburse, in advance of the final disposition of a proceeding and on terms the enterprise considers appropriate, reasonable expenses incurred by a former governing person or delegate who was, is, or is threatened to be made a respondent in the proceeding; or a present or former employee, agent, or officer who is not a governing person of the enterprise and who was, is, or is threatened to be made a respondent in the proceeding.

Provides that with respect to a limited partnership (LP), a vote of a majority-in-interest of the limited partners constitutes approval of the owners for purposes relating to insurance and other arrangements.

Requires that a plan of merger be in writing and include certain required provisions, including the identification of any of the ownership or membership interests of an organization that is party to the merger that are to be canceled rather than converted or exchanged.

Authorizes a plan of merger to provide for cancellation of an ownership or membership interest while providing for the conversion or exchange of other ownership or membership interests of the same class or series as the ownership or membership interest to be canceled.

Provide that when a merger takes effect, in addition to certain other provisions, the ownership or membership interests of each organization that is a party to the merger and that are to be converted or exchanged, in whole or part, into the ownership or membership interests, obligations, rights to purchase securities, or other securities of one more of the surviving or new organizations, into cash or other property, including ownership or membership interests, obligations, rights to purchase securities, or other securities of any organization, or into any combination of these, or that are to be canceled, are converted, exchanged, or canceled as provided in the plan of a merger, and the former owners or members who held ownership or membership interests of each domestic entity that is a party to the merger are entitled only to the rights provided by the plan of merger or, if applicable, any rights to receive the fair value for the ownership interests.

Requires that a plan of exchange and a plan of conversion be in writing.

Requires that, to perfect the owner's rights of dissent and appraisal, an owner, among other things, if the proposed action is to be submitted to a vote of the owners at a meeting, give to the domestic entity a written notice of objection to the action that is addressed to the entity's president and secretary; states that the owner's right to dissent will be exercised if the action takes effect; provides an address to which notice of effectiveness of the action should be delivered or mailed; and is delivered to the entity's principal executive offices before the meeting.

Provides that an owner who does not make a demand within the period required by this bill or does not give the notice of objection before the meeting of the owners is bound by the action and is not entitled to exercise the rights of dissent and appraisal.

Provides that Subchapter C (Shareholders Agreements), Chapter 21 (For-Profit Corporations), Business Organizations Code, does not prohibit or impair any agreement between two or more shareholders, or between the corporation and one or more of the corporation's shareholders, or other law.

Provides that Sections 21.203 (No Statutory Preemptive Right Unless Provided by Certificate of Formation), 21.204 (Statutory Preemptive Rights), 21.205 (Waiver of Preemptive Right), 21.206 (Limitation on Action to Enforce Preemptive Right), 21.207 (Disposition of Shares Having Preemptive Rights), and 21.208 (Preemptive Right in Existing Corporation), Business Organizations Code, do not invalidate or impair a corporation's right or power to grant an enforceable nonstatutory preemptive right in a contract between the corporation and a shareholder or other person; or the governing documents of the corporation.

Requires that the record date for the purpose of determining shareholders entitled to notice of or to vote at a shareholders' meeting or any adjournment of the meeting, as provided by the directors, be at least 10 days before the date of the shareholders' meeting.

Provides that sections of the Business Organizations Code relating to contracts of transactions involving interested directors and officers apply to a contract or transaction between:

- a corporation and one or more directors, officers, or members, or one or more affiliates or associations of one or more directors, officers, or members, of the corporation, or an entity or other organization in which one or more directors, officers, or members, or one or more affiliates or associates of one or more directors, officers, or members, of the corporation, is a managerial official or a member, or has a financial interest;
- a limited liability company (LLC) and one or more governing persons or officers, or one or more affiliates or associates of one or more governing persons or officers of the company; or an entity or other organization in which one or more governing persons or officers, or one or more affiliates or associations of one or more governing persons or officers, of the company is a managerial official, or has a financial interest; and
- a real estate investment trust and one or more trust managers or officers, or one or more affiliates or associates of one or more directors or officers, of the trust; or an entity or other organization in which one or more trust managers or officers, or one or more affiliates or associates of one or more directors or officers, of the trust, is a managerial official, or has a financial interest.

Authorizes a person who has the relationship or interest described by the section above to be present at or participate in and, if the person is a director, governing person, or committee member, to vote at a meeting of the board of directors or governing authority or of a committee of the board or governing authority that authorizes the contract or transaction; or sign, in the person's capacity as a director, governing person, or committee member, a written consent of the directors, governing persons, or committee members to authorize the contract or transaction.

Authorizes the board of directors of the corporation, if after the adoption of a resolution the board of directors of the corporation determines that the plan of conversion is not advisable, to submit the plan of conversion to the corporation's shareholders with a recommendation that the shareholders not approve the plan of conversion.

Authorizes a plan of conversion for a corporation to include a provision requiring that the plan of conversion be submitted to the shareholders of the corporation, regardless of whether the board of directors determines, after adopting a resolution or making a determination, that the plan of conversion is not advisable and recommends that the shareholders not approve the plan of conversion.

Prohibits certain provisions that from being waived or modified in the company agreement of an LLC, including Sections 101.602(b) (relating to the enforceability of obligations and expenses of series against assets) and 101.613 (Distributions), Business Organizations Code.

Prohibits the company agreement from unreasonably restricting a person's right of access to records and information.

Authorizes a membership interest to be community property under applicable law and provides that a member's right to participate in the management and conduct of the business of the LLC is not community property.

Sets forth provisions for the effect of death or divorce on membership or partnership interest for purposes of the Business Organizations Code.

Deletes existing text providing that a partner in a limited liability partnership (LLP) is not personally liable for a debt or obligation of the partnership arising from an error, omission, negligence, incompetence, or malfeasance committed by another partner or representative of the partnership while the partnership is an LLP and in the course of the partnership unless the first partner was supervising or directing the other partner or representative when the error, omission, negligence, incompetence, or malfeasance was committed by the other partner or representative; was directly involved in a specific activity in which the error, omission, negligence, incompetence, or malfeasance was committed by the other partner or representative; or has notice or knowledge of the error, omission, negligence, incompetence, or malfeasance by the other partner or representative at the time of the occurrence and then failed to take reasonable action to prevent or cure the error, omission, negligence, incompetence, or malfeasance

Requires a partnership, to become an LLP, in addition to complying other provisions, rather than Sections 152.803 (Name) and 152.804 (Insurance or Financial Responsibility), to file an application with the secretary of state.

Provides that Chapter 101 (Limited Liability Companies), Business Organizations Code, does not impair an agreement for the purchase or sale of a membership interest at any time, including on the death or divorce of an owner of the membership interest.

Authorizes a manager or committee member of an LLC, to vote, in person, or if authorized by the company agreement, by a proxy executed in writing by the manager or committee member, as appropriate.

Authorizes a court having jurisdiction, on an application by a judgment creditor of a partner or any other owner of a partnership interest, to charge the partnership interest of the judgment debtor to satisfy the judgment.

Provides that to the extent that the partnership interest is charged, the judgment creditor has only the right to receive any distribution to which the judgment debtor would otherwise be entitled in respect of the partnership interest.

Provides that a charging order constitutes a lien on the judgment debtor's partnership interest.

Prohibits the charging order lien from being foreclosed on under the Business Organizations Code or any other law.

Provides that, for certain purposes, an obligation is incurred while a partnership is an LLP if the obligation relates to an action or omission occurring while the partnership is an LLP; or the obligation arises under a contract or commitment entered into while the partnership is an LLP.

Provides that for certain purposes, a limited partner does not participate in the control of the business because the limited partner has or has acted in one or more of certain capacities or possesses or exercises one or more of certain powers, including) proposing, approving, or disapproving, by vote or otherwise, one or more of certain matters, including the merger, conversion, or interest exchange with respect to an LP.

Provides that a governing document or a filing instrument, including a certificate of formation or application for registration, is not considered to have failed to conform to the Business Organizations Code if the governing document or filing instrument contains a reference to prior law that was applicable at the time of its filing or adoption; contains a provision that was authorized by prior law at the time of its filing or adoption; includes a term or phrase described by Section 1.006 (Synonymous Terms); or includes a term or phrase from prior law that is different from the corresponding term or phrase used in the Business Organizations Code.

Authorizes a domestic filing entity whose existence has been voluntarily dissolved or involuntarily dissolved under prior law or whose certificate of formation or equivalent governing document has been canceled, revoked, suspended, or forfeited under prior law, on or after January 1, 2010, to reinstate the entity in accordance with the Business Organizations Code.

Authorizes a foreign filing entity whose registration to do business has been canceled, revoked, suspended, or forfeited under prior law, on or after January 1, 2010, to reinstate its registration in accordance with the Business Organizations Code.

Repeals Sections 21.001 (Applicability of Chapter), 152.802(i) (relating to compliance of a partnership), and 152.804 (Insurance or Financial Responsibility), Business Organizations Code.

Uniform Law on Secured Transactions—S.B. 782

by Senator Carona—House Sponsor: Representative Deshotel

Secured transactions include security agreements for real and personal property and related agreements between creditors and debtors. Since the time of the original drafting of the Texas Uniform Commercial Code (UCC), a number of provisions within UCC have proven cumbersome or problematic. S.B. 782 revises UCC to address many of these outdated provisions and that the revisions to UCC have been approved and recommended for enactment by the National Conference of Commissioners on Uniform State Laws (NCCUSL). This bill:

Provides that a secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

Provides that a system satisfies the section above, and a secured party has control of electronic chattel paper, if the record or records comprising the chattel paper are created, stored, and assigned in a certain manner, including that copies or amendments add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party; and that any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Provides that a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located in a certain location, including in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office.

Provides that filing of a financial statement is not necessary or effective to perfect a security interest in property subject to, among other things, a certificate of title statute of this state or rules adopted under the statute to the extent the statute or rules provide for a security interest to be indicated on the certificate of title as a condition or result of perfection or such alternative to notation as may be prescribed by those statutes or rules of this state or statutes relating to utility security instruments.

Sets forth rules that apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction.

Provides that a licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Provides that a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and perfected by a filed financing statement that would be ineffective to perfect the security interest but for the application of Section 9.508 (Effectiveness of Financing Statement If New Debtor Becomes Bound by Security Agreement), Business & Commerce Code, and this bill is subordinate to a security interest in the same collateral that is perfected other than by such a filed financing statement.

Provides that an assignment of a security interest is subject to Section 466.410 (Assignment of Prizes), Government Code, prohibits the assignment of installment prize payments due within the final two years of the prize payment schedule, in which case provisions of this bill shall prevail over Section 466.410 solely to the extent necessary to permit such assignment.

Provides that a record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if certain conditions are met, including that the record satisfies the requirements for a financing statement, but the record need not indicate that it is to be filed in the real property records; and the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor.

Provides that a financing statement sufficiently provides the name of the debtor under certain conditions.

Provides that if the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor so that the financing statement becomes seriously misleading, the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the filed financing statement becomes seriously misleading; and the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement that renders the financing statement not seriously misleading is filed within four months after that event.

Authorizes the secured party, if necessary to enable a secured party to exercise the right of a debtor to enforce a mortgage nonjudicially, to record in the office in which a record of the mortgage is recorded a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and the secured party's sworn affidavit in recordable form stating that a default has occurred with respect to the obligation secured by the mortgage, and the secured party is entitled to enforce the mortgage nonjudicially.

Sets forth provisions for financing statements filed and security interests perfected and unperfected before July 1, 2013.

Authorizes a person, after the 2013 amendments take effect, to add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing

statement only in accordance with the law of the jurisdiction governing perfection, as amended by the 2013 amendments.

Authorizes, however, that the effectiveness of a pre-effective-date financing statement also be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

Authorizes the effectiveness of a pre-effective-date financing statement filed in this state, whether or not the law of this state governs perfection of a security interest, to be terminated after the 2013 amendments take effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement has been filed in the office specified by the law of the jurisdiction governing perfection, as amended by the 2013 amendments, as the office in which to file a financing statement.

Authorizes a person to file an initial financing statement or a continuation statement if the secured party of record authorizes the filing, and the filing is necessary to continue the effectiveness of a financing statement filed before July 1, 2013, or to perfect or continue the perfection of a security interest.

Repeals Chapter 11 (Effective Date and Transition Provisions--1973 Amendments), Business & Commerce Code.

First Sale of Certain Liquor—S.B. 799

by Senator Nelson—House Sponsor: Representative Geren

Currently, a tax is imposed on the first sale of wine at a rate of 20.4 or 40.8 cents per gallon, depending on percentage of alcohol. As a matter of practice, the Texas Alcoholic Beverage Code does not include the sale of wine from a winery to another winery or wholesaler as a "first sale" for the purpose of taxation. This bill:

Redefines "first sale" as it applies to all other liquor, to mean the first sale, possession, distribution, or use in this state, except that the term does not include the first sale by the holder of a winery permit to another holder of a winery permit or the holder of a wholesaler's permit.

Maintenance of Wine Kegs—S.B. 890

by Senator Carona—House Sponsor: Representative Hamilton

Wine kegs are increasingly being used by restaurants and other establishments for by-the-glass pours. These dispensers have coils that need to be maintained. While the wholesaler retains ownership of the wine keg used at the establishments, statute prevents them from entering the establishment to clean and maintain them. This bill:

Requires TABC to adopt rules that set definite limitations consistent with general provisions of the Alcoholic Beverage Code, relaxing the restrictions of Section 102.07 (Prohibited Dealings with Retailer or Consumer) to allow the holder of a wholesaler's, general class B wholesaler's, or local class B wholesaler's permit or the permit holder's agent to perform the cleaning and maintenance of coil connections for the dispensing of wine.

Customer-Specific Communications Contracts—S.B. 983

by Senator Carona—House Sponsor: Representative Harless

Incumbent local exchange carriers (ILECs) are required, under Chapter 52 (Commission Jurisdiction), Utilities Code, to file certain customer contracts, including contracts for private network services and customer-specific contracts with the Public Utility Commission of Texas (PUC). These contracts are for packages of voice and data services. Chapter 52 also requires PUC approval of certain customer-specific contracts, but in practice, the acceptance of the

filed contracts serves as approval. Additionally, a July 2010 Sunset Advisory Commission report recommended that private network and customer-specific networks no longer be filed as a matter of routine, noting the "competitive nature" of these services, as well as the fact that PUC has received no complaints or inquiries about either of these services in recent years. This bill:

Provides that the regulatory treatments PUC is authorized to implement under Section 52.054 (Rules and Procedures for Incumbent Local Exchange Companies), Utilities Code, includes approval of a range of rates for a specific service and the detariffing of rates.

Deletes existing text providing that the approval of a customer-specific contract for a specific service is among the regulatory treatments PUC may implement.

Deletes existing text requiring that each customer-specific contract be filed with PUC.

Repeals Sections 52.057 (Customer-Specific Contracts) and Section 53.065(b) (relating to limitations of incumbent local exchange companies), Utilities Code.

Cybersecurity, Education, and Economic Development Council—S.B. 988

by Senator Van de Putte—House Sponsors: Representatives Larson and Pena

Cybersecurity is one of the fastest growing industries in the nation and the cybersecurity industry presents a new field of economic growth that may be essential in the future. This bill:

Establishes the Cybersecurity, Education, and Economic Development Council (council) and sets forth the composition and membership of the council.

Requires the council to, at least quarterly, meet at the call of the presiding officer.

Requires the council to conduct an interim study and make recommendations to the executive director regarding improving the infrastructure of this state's cybersecurity operations with existing resources and through partnerships between government, business, and institutions of higher education; and examining specific actions to accelerate the growth of cybersecurity as an industry in this state.

Authorizes the council to request the assistance of state agencies, departments, or offices to carry out its duties.

Requires the council, not later than December 1, 2012, to submit a report based on its findings to the executive director of the council; the governor; the lieutenant governor; the speaker of the house of representatives; the higher education committees of the senate and house of representatives; the Senate Committee on Economic Development; the House Technology Committee; and the House Economic and Small Business Development Committee.

Provides that the council is abolished September 1, 2013.

Research Superiority Awards Through the Emerging Technology Fund—S.B. 1047

by Senator Jackson—House Sponsor: Representative John Davis

Currently, only institutions of higher education are eligible to receive grants from the Emerging Technology Fund (ETF) for research superiority awards. S.B. 1047 expands the definition of "research institution" to include an innovation and commercialization center affiliated with the Lyndon B. Johnson Space Center of the National

Aeronautics and Space Administration (NASA-JSC) to be eligible for funds administered by ETF in order to provide an avenue for NASA-JSC engineers and scientists to continue working on ideas to take to the private market. This bill:

Requires that amounts allocated from ETF for use as provided be reserved for incentives for private or nonprofit entities to collaborate with research institutions in this state or private institutions of higher education in this state on emerging technology projects with a demonstrable economic benefit to this state.

Requires that amounts allocated from ETF for use as provided be used to acquire new or enhance existing research superiority at research institutions in this state.

Provides that the employment by a research institution of one or more world-class or nationally recognized researchers and associated assistants in an industry eligible to receive funding is considered "research superiority."

Requires the Texas Emerging Technology Advisory Committee to review and consider proposals by research institutions for creating new research superiority; attracting existing research superiority from institutions not located in this state and other research entities; or enhancing existing research superiority by attracting from outside this state additional researchers and resources.

Prohibits a research institution from knowingly attempting to attract an individual key researcher or research superiority identified for consideration for funding by another research institution in this state or a private institution of higher education in this state.

Requires a research institution to document specific benefits that this state may expect to gain as a result of attracting the research superiority before the institution may enter into a contract to receive funding or incentives.

State-Issued Certificates of Franchise Authority—S.B. 1087

by Senator Carona—House Sponsor: Representative Hilderbran

S.B. 5 (Fraser; SP: King, McClendon), 79th Legislature, 2nd Called Session, 2005, made Texas the first state in the nation to adopt a new regulatory framework for providers of video services. Video service providers entering the market after 2005 were allowed to forgo municipal franchise agreements and apply to PUC for state-issued certificates of franchise authority (SICFA) when entering the video franchise market. Some cable providers were required to operate under different rules than their competitors, thus providing new market entrants certain advantages over incumbent video providers. Under an SICFA, a provider must remit a fee of five percent of gross revenues and a one percent public, education, and government (PEG) fee to municipalities. Incumbent cable providers are required to provide institutional network capacity (I-Net) obligations. This bill:

Provides that an entity providing cable service or video service under a franchise agreement with a municipality is not subject to provisions of this bill with respect to such municipality until the franchise agreement is terminated under Section 66.004 (Eligibility for Commission-Issued Franchise), Utilities Code, or until the franchise agreement expires.

Authorizes a cable service provider or video service provider in a municipality with a population of less than 215,000 that was not allowed to or did not terminate a municipal franchise to elect to terminate not less than all unexpired franchises in municipalities with a population of less than 215,000 and seek an SICFA for each area served under a terminated municipal franchise by providing written notice to PUC and each affected municipality before January 1, 2012.

Provides that a municipal franchise is terminated on the date PUC issues an SICFA to the provider for the area served under that terminated franchise.

Authorizes a cable service provider or video service provider in a municipality with a population of at least 215,000 to terminate a municipal franchise in that municipality if the cable service provider or video service provider is not the incumbent cable service provider in that municipality; and the incumbent cable service provider received an SICFA from PUC before September 1, 2011.

Authorizes a municipality with a population of at least 215,000 to enter into an agreement with any cable service provider in the municipality to terminate a municipal cable franchise before the expiration of the franchise.

Authorizes a municipality to review the business records of the cable service provider or video service provider to the extent necessary to ensure compensation provided that the municipality is only authorized to review records that relate to the 48-month period preceding the date of the last franchise fee payment.

Requires the holder of an SICFA, until the expiration or termination of the incumbent cable service provider's agreement, to pay a municipality in which it is offering cable service or video service the same cash payments on a per subscriber basis as required by the incumbent cable service provider's franchise agreement.

Requires the holder of an SICFA, on the expiration or termination of the incumbent cable service provider's agreement, to pay a municipality in which it is offering cable service or video service one percent of the provider's gross revenues, or at the municipality's election, the per subscriber fee that was paid to the municipality under the expired or terminated incumbent cable service provider's agreement, in lieu of in-kind compensation and grants.

Requires the holder of an SICFA to include with a fee paid to a municipality a statement identifying the fee.

Provides that a municipality that receives fees:

- is required to maintain revenue from the fees in a separate account established for that purpose;
- is prohibited from commingling revenue from the fees with any other money;
- is required to maintain a record of each deposit to and disbursement from the separate account, including a record of the payee and purpose of each disbursement; and
- is prohibited from spending revenue from the fees except directly from the separate account.

Requires the cable service provider or video service provider, if a municipality did not have the maximum number of PEG access channels as of September 1, 2005, based on the municipality's population on that date, to furnish at the request of the municipality a certain number of PEG channels.

Requires holder of an SICFA that is not an incumbent cable service provider and an incumbent cable service provider, including an incumbent cable service provider that holds an SICFA, where technically feasible, to use reasonable efforts to interconnect their cable or video systems for the purpose of providing PEG programming.

Cemeteries and Perpetual Care Cemetery Corporations—S.B. 1167

by Senator Carona—House Sponsor: Representative Hernandez Luna

A perpetual care or endowment care cemetery means that a perpetual care fund has been established in conformity with state laws to provide for the ongoing maintenance, repair, and care of the cemetery. All cemeteries established after September 1, 2003, are required to be licensed by the Texas Department of Banking (TDB) as a perpetual care cemetery and must have a certificate of authority. Since 2003, a number of issues have arisen in connection with the regulation of perpetual care cemeteries. This bill:

Provides that if the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th

day after the date the person received notice of the decedent's death or the 10th day after the date the decedent died, the person is presumed to be unable or unwilling to control the disposition; and the person's right to control the disposition is terminated and the right to control the disposition is passed to the certain persons in a certain the priority.

Authorizes a lawn crypt that is part of a private estate to be installed in fewer than 10 units and provides that a private estate is a small section of a cemetery that is sold under a single contract; is usually offset from other burial sites; allows for interment of several members of the same family or their designees; and is identified on the plat for cemetery property as a private estate.

Requires that a cemetery in which undeveloped lawn crypt spaces are being sold or reserved for sale begin construction on the lawn crypt section not later than 48 months after the date of the first sale or reservation, whichever is earlier, and complete construction not later than 60 months after the date of the first sale or reservation, whichever is earlier.

Requires that the cemetery, if construction of a lawn crypt section does not begin or has not been completed by the dates specified on the buyer's written request, refund the entire amount paid for the undeveloped lawn crypt space not later than the 30th day after the date of the buyer's request.

Requires that a sales contract for undeveloped lawn crypt space comply with applicable regulations of the Federal Trade Commission, including 16 C.F.R. Section 433.2, with respect to a contract payable in installments.

Requires that a sales contract for an undeveloped lawn crypt space contain terms, whether in English or Spanish, that inform the buyer of certain information and requires that each notice be written in plain language designed to be easily understood by the average consumer and be printed in an easily readable font and type size.

Prohibits a perpetual care cemetery from being operated in this state unless a certificate of formation for a domestic filing entity or registration to transact business for a foreign filing entity is filed with SOS showing certain information, including subscriptions and payments in cash for 100 percent of the entity's ownership or membership interests.

Requires a corporation that operates one or more perpetual care cemeteries in this state (corporation) to hold a certificate of authority to operate a perpetual care cemetery.

Requires an applicant, to obtain a certificate of authority to operate a perpetual care cemetery, to not later than the 30th day after the date a corporation files its certificate of formation or application for registration with SOS, file an application, made under oath, on a form prescribed by the Banking Department of Texas (TDB); and pay a filing fee in an amount set by the finance commission under Section 712.008 (Rules).

Authorizes the banking commissioner of Texas (banking commissioner), if the corporation fails to comply, to instruct SOS to remove the corporation from SOS's active records or cancel the corporation's registration.

Requires SOS, on an instruction from the banking commissioner, to remove the corporation from SOS's active records or cancel the corporation's registration and serve notice of the cancellation on the corporation by registered or certified letter, addressed to the corporation's address.

Authorizes the banking commissioner to investigate an applicant before issuing a certificate of authority.

Requires an applicant, to qualify for a certificate of authority to demonstrate to the satisfaction of the commissioner that certain conditions are met.

Requires the banking commissioner to issue a certificate of authority if the commissioner finds that the applicant meets the qualifications and it is reasonable to believe that the applicant's cemetery business will be conducted fairly and lawfully, according to applicable state and federal law, and in a manner commanding the public's trust and confidence; the issuance of the certificate of authority is in the public interest; the documentation and forms required to be submitted by the applicant are acceptable; and the applicant has satisfied all requirements for issuance of a certificate of authority.

Sets forth requirements for the issuance, renewal, and surrender of a certificate of authority.

Prohibits a certificate of authority from being transferred or assigned.

Requires a certificate holder to notify TDB in writing of a transfer of ownership of the certificate holder's business or a transfer of 25 percent or more of the stock or other ownership or membership interest of the corporation as follows within a certain time period.

Authorizes the proposed transferee, if the proposed transferee is not a certificate holder, to file any necessary documents with SOS and an application for a certificate of authority with TDB as required by this chapter.

Authorizes a corporation authorized by law to operate a perpetual care cemetery but not doing so to do so if the corporation, among other criteria, complies with the requirements for obtaining a certificate of authority.

Authorizes the banking commissioner to issue an order requiring restitution by a person, to the cemetery's fund or to a preconstruction trust, if, after notice and opportunity for hearing held in accordance with the procedures for a contested case hearing, the commissioner finds that the corporation has not made a deposit in the fund as required.

Authorizes the banking commissioner to issue an order requiring restitution by a person if, after notice and opportunity for a hearing held in accordance with the procedures for a contested case hearing, the banking commissioner finds that the corporation has not ordered memorials in compliance with the deadlines established by rules adopted under Chapter 712 (Perpetual Care Cemeteries), Health and Safety Code.

Authorizes, rather than requires, the trier of fact, if, after a hearing conducted, the trier of fact finds that a violation Chapter 712 or a rule of the finance commission establishes a pattern of willful disregard for the requirements or rules of the finance commission, to recommend to the banking commissioner that the maximum administrative penalty permitted be imposed on the person committing the violation or that the commissioner cancel or not renew the corporation's certificate of authority if the person holds such a certificate.

Authorizes the banking commissioner to issue an order to cease and desist to a person if the banking commissioner finds by examination or other credible evidence that the person has violated a law of this state relating to perpetual care cemeteries, and the violation was not corrected by the 31st day after the date the person receives written notice of the violation from TDB.

Authorizes the banking commissioner to issue an emergency order that takes effect immediately if the commissioner finds that immediate and irreparable harm is threatened to the public or a plot owner, marker purchaser, or other person whose interests are protected by Chapter 712.

Authorizes the attorney general, in conjunction with a proceeding to forfeit the right to do business in this state brought by the attorney general, to seek the appointment of a receiver.

Requires the receiver, if the receiver is a private party, to be compensated from the corporation or, if the corporation has no assets available to pay the receiver, from the income only of the perpetual care fund.

Authorizes the court to appoint a TDB employee as a receiver.

Prohibits the employee, if the receiver is a TDB employee, from receiving compensation for serving as a receiver in addition to the employee's regular salary.

Authorizes TDB to receive reimbursement from the corporation for the travel expenses and the fully allocated personnel costs associated with the employee's service as receiver.

Provides that a TDB employee serving as receiver is not personally liable for damages arising from the employee's official act or omission unless the act or omission is corrupt or malicious.

Requires the attorney general to defend an action brought against an employee serving as receiver because of an official act or omission as receiver regardless of whether the employee has terminated service with TDB before the action commences.

Provides that a person commits an offense if the person collects money for the purchase of a memorial and knowingly defalcates or misappropriates the funds and provides that such an offense is punishable as if it were an offense under Section 32.45 (Misapplication of Fiduciary Property or Property of Financial Institution), Penal Code.

Does not prevent an aggrieved party or the attorney general from maintaining a civil action for the recovery of damages, or the banking commissioner from maintaining an administrative action for restitution, caused by an injury resulting from an offense.

Repeals Sections 711.062 (Request to Install Lawn Crypt in Fewer than 10 Units), 712.0031 (Notices to Banking Department), and 712.0441(e) (relating to authorizing the commissioner to order a cease and desist), Health and Safety Code.

Immunity and Liability of Charitable Organizations—S.B. 1846

by Senator Lucio—House Sponsor: Representative Lewis

The Charitable Immunity and Liability Act (Act) was enacted in 1987 to reduce the liability exposure and insurance costs of charitable organizations and their employees and volunteers for the policy purposes. The Act provides that charitable organizations are immune to certain types of liability as long as the charity maintains a certain minimum amount of insurance. Questions have been raised regarding whether certain insurance products qualify as insurance coverage under the Act. This bill:

Redefines "charitable organization."

Authorizes the liability insurance coverage to be provided under a contract for insurance, a plan providing for self-insured retention that the charitable organization has fully paid or establishes to a court of law that it is capable of fully and immediately paying, a Lloyd's plan, an indemnity policy to which all requirements for payment have been or will be met, or other plan of insurance authorized by statute and may be satisfied by the purchase of a \$1,000,000 bodily injury and property damage combined single limit policy.

Provides that coverage amounts are inclusive of a self-insured retention, a Lloyd's plan, or an indemnity policy to which all requirements for payment have been or will be met.

Requires that nothing in Chapter 84 (Charitable Immunity and Liability), Civil Practice and Remedies Code, limits the liability of any insurer or insurance plan in an action under Chapter 541 (Unfair Methods of Competition and Unfair or

Deceptive Acts or Practices), Insurance Code, or in an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

Powers of the Coastal Water Authority—S.B. 1920

by Senator Gallegos—House Sponsor: Representative Eiland

The Coastal Water Authority (authority) was created by the legislature in 1967 as a conservation and reclamation district. One of its purposes is to provide surface water to regional municipalities and industries. This bill:

Authorizes the authority to participate in a wetland mitigation program under Chapter 221 (Wetland Mitigation), Natural Resources Code.

Authorizes the authority to contract with a private or public entity to sell or trade credits, offsets, tax credits, or other similar marketable instruments authorized by state or federal law and available to the authority that are attributable to a wetland mitigation or other environmental mitigation project or activity of the authority.

Authorizes the authority to issue bonds or notes secured by a pledge of any stream of revenue received from such projects, activities, or transactions for any authorized purpose of the authority.

Authorizes the authority to contract with any other governmental entity to issue bonds or notes secured by revenue of the governmental entity attributable to any wetland mitigation or other environmental mitigation project, activity, or transaction.

Authorizes the proceeds of the bonds to be used to fund any authorized purpose of the authority or any joint project with the participating governmental entity.

Student Success-Based Funding and Reporting—H.B. 9

by Representative Branch et al.—Senate Sponsor: Senator Zaffirini

Texas has made significant gains toward meeting its higher education goals in student participation set by the *Closing the Gaps by 2015* initiative. However, the Texas Higher Education Coordinating Board (THECB) reports that Texas must award approximately 46,000 more degrees per year to meet the 2015 goals. Realigning state resources with the goal of improving institutional productivity and promoting student success could bolster the efforts to meet the *Closing the Gaps* goals in student success. Currently, formula funding allocations for institutions of higher education generally reward increasing enrollments. This bill:

Defines "at-risk student" and "critical field"; and authorizes THECB by rule, beginning September 1, 2012, based on certain determinations made by THECB, to designate as a critical field a field of study that is not currently designated as a critical field or to remove a field of study from the list of fields currently designated as critical fields.

Requires THECB, in devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds for a general academic teaching institution other than a public state college, to incorporate the consideration of undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions; requires THECB to make recommendations for incorporating the success measures into the distribution of any incentive funds available to those institutions, and authorizes THECB to consider certain success measures.

Provides that not more than 10 percent of the total amount of general revenue appropriations of base funds for undergraduate education recommended by THECB for general academic teaching institutions other than public state colleges may be based on student success measures and provides that THECB's recommendation for base funding for undergraduate education based on student success measures does not reduce or otherwise affect funding recommendations for graduate education.

Requires THECB, in devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds for public junior colleges, public state colleges, and public technical institutes, to incorporate the consideration of the undergraduate student success measures achieved during the preceding state fiscal biennium by each institution, and authorizes THECB to consider certain success measures.

Requires THECB to include in its findings and recommendations to the legislature an evaluation of the effectiveness of the student success measures in the preceding state fiscal biennium and any related recommendations THECB considers appropriate.

Requires that a committee utilized by THECB in carrying out its duties under Section 61.059 (Appropriations), Education Code, be composed of representatives of a cross-section of institutions representing each of the institutional groupings under THECB's accountability system; requires the commissioner of higher education to solicit recommendations for the committee's membership from the chancellor of each university system and from the president of each institution of higher education that is not a component of a university system; and requires such chancellors and presidents to recommend at least one institutional representative for the institutional grouping to which the institution is assigned.

Requires THECB, not later than September 30, 2011, and subsequently not later than July 1, 2012, to submit to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency a written report reviewing, comparing, and highlighting national and global best practices on improving student outcomes, and higher education governance, administration, and transparency.

Course Schedules and Textbook Lists—H.B. 33

by Representative Branch et al.—Senate Sponsor: Senator Zaffirini

Rising textbook prices are making it increasingly difficult for students and parents to keep up with the costs of higher education. This bill:

Amends Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, by adding Subchapter I (Textbooks), and defines certain terms, including "college bookstore," "supplemental material," and "textbook."

Requires each institution of higher education, for each semester and academic term, to compile a course schedule indicating each course offered by the institution, and with respect to each course, to include with the schedule a list of the required and recommended textbooks that specifies certain information for each textbook.

Requires each institution of higher education to publish the textbook list with the course schedule, to disseminate specific information regarding any revisions to the institution's course schedule and textbook list, and provides that an institution is not required to publish a textbook list or revisions to that textbook list if a college bookstore publishes that list and any revisions to that list on the bookstore's Internet website on behalf of the institution.

Requires each institution of higher education to establish certain deadlines and to disseminate the institution's course schedule and textbook list as soon as practicable but not later than the 30th day before the first day that classes are conducted for the semester or other academic term for which the schedule and list are compiled.

Requires that when a textbook publisher provides information regarding a textbook or supplemental material to a person in charge of selecting course materials at an institution of higher education, the publisher shall also provide to that person certain written information regarding the textbook or supplemental material.

Provides that Subchapter I, Chapter 51, Education Code, applies beginning with the 2012 fall semester.

Personal Financial Literacy Training—H.B. 399

by Representative Castro et al.—Senate Sponsors: Senators Zaffirini and Davis

The proper management of personal finances is among the most critical life skills a person can learn, but personal finances involve complicated subjects that are often not taught in Texas schools. This bill:

Requires the THECB, by rule, to require a general academic teaching institution to offer training in personal financial literacy to students of the institution and to determine the topics to be covered by that training.

Authorizes THECB, by rule, to offer the financial literacy training in an online course, and requires THECB to require general academic teaching institutions to offer the training as soon as practical, but not later than the 2013 fall semester.

Temporary Housing for Certain Postsecondary Students—H.B. 452

by Representative Lucio III et al.—Senate Sponsor: Senator Lucio

Although many foster youth desire to attend and graduate from college, the lack of housing options in between academic terms may represent a barrier in a former foster youth's pursuit of higher education. This bill:

Requires that on the student's request, each institution of higher education assist an eligible student in locating temporary housing for any period beginning on the last day of the academic term and ending on the first day of the immediately following academic term.

Sets forth the required criteria a student must meet to be eligible for housing assistance from an institution of higher education, including having been under the conservatorship of the Department of Family and Protective Services or its predecessor at a specified time and lacking other reasonable temporary housing alternatives between academic terms.

Authorizes the institution to provide a stipend to cover any reasonable costs of temporary housing that are not covered by other financial aid immediately available to the student for that purpose or to provide temporary housing directly to the student for each eligible student who also demonstrates financial need.

Authorizes an institution to use any available revenue, including legislative appropriations, and to solicit and accept gifts, grants, or donations for the purpose of providing temporary housing to eligible students, and requires that any gifts, grants, or donations be used before using other revenue.

Certain Abandoned Property Held by Public Junior Colleges—H.B. 650

by Representative Castro—Senate Sponsor: Senator Uresti

Currently, under Chapter 76 (Report, Delivery, and Claims Process for Certain Property), Property Code, school districts, municipalities, and counties that are holders of property presumed abandoned and valued at \$100 or less are responsible for the reporting, delivery, and claims processes for that property, but public junior colleges are not currently included in the list of entities outlined in Chapter 76. This bill:

Provides that Chapter 76 also applies to the holder of property that is a junior college that has opted to handle property that is presumed abandoned and is valued at \$100 or less, and provides that Chapter 76 applies to a junior college only if the governing board of the junior college takes formal action to opt to handle such property in accordance with that chapter.

Online Resources Regarding Public Institutions of Higher Education—H.B. 736

by Representative Diane Patrick et al.—Senate Sponsor: Senator West

Previous legislation required an institution of higher education to publish an online résumé on the institution's Internet website. This résumé gives prospective students, parents, and lawmakers institution-specific information such as enrollment numbers, retention rates, and graduation rates along with comparable data from the institution's in-state and out-of-state peer institutions. This bill:

Requires each general academic teaching institution to make available to the public on the institution's Internet website certain information relating to the institution's faculty, and requires each institution to update that required information for the preceding academic or fiscal year not later than December 31 of each year.

Requires the data relating to student loans, grants, or scholarships included by THECB on an institution's résumé under Subchapter A (General Provision), Chapter 51A (Online Institution Résumés for Institutions of Higher Education), Education Code, to be the same data as that published in regard to the institution by the United States Department of Education (USDE) on certain websites; and authorizes an institution to satisfy that information requirement by linking the online résumé of the institution to that information as it appears on the website maintained by USDE.

Requires the online four-year general academic teaching institution résumé for legislators and other policy makers to include additional information relating to the institution for the most recent state fiscal year for which the information is available and compare that information to the same information for certain previous state fiscal years, including additional information regarding enrollment, costs, student success, and funding.

Requires the online four-year general academic teaching institutional résumé for prospective students, parents, and members of the public to include certain additional information relating to the most recent state fiscal year for which the information is available, including additional information regarding enrollment, financial aid, baccalaureate success, and funding, and removes previously required cost information regarding the amount and percentage by which the institution has increased tuition for a degree program or course level during the state fiscal year covered by the résumé.

Requires the lower-division institution résumé for legislators and other policy makers to include certain additional information relating to the institution for the most recent state fiscal year for which the information is available and compare that information to the same information for certain previous state fiscal years, including additional information regarding enrollment, costs, and funding.

Requires THECB and the Texas Workforce Commission (TWC) to jointly develop a comprehensive strategy to improve and coordinate the dissemination of online information regarding the operation and performance of career schools or colleges that THECB or TWC identifies as doing business in Texas.

Requires THECB and TWC, as part of the comprehensive strategy, to compile, share, and compare existing data and other applicable information; and to organize that information as nearly as possible according to the categories of information required for the online résumés of lower-division public institutions.

Requires THECB to make available to the public on THECB's Internet website a search tool that allows a person to compare general academic teaching institutions that meet certain criteria selected by the person, including offering a particular major or program of study.

Requires such a comparison tool to be accessible from THECB's Internet website, to allow a user to identify general academic teaching institutions according to certain determined selection criteria, to be accessible to the public without requiring registration or use of certain user identification, and to generate a comparison chart in a grid format that meets certain requirements; and requires each general academic teaching institution to provide to THECB information to be included in the comparison tool not later than October 1, or a date determined by THECB, of each year.

Dropped Courses Limitations Notice and Funding of Credit Hours—H.B. 992 [Vetoed]

by Representative Castro—Senate Sponsor: Senator Zaffirini

Section 51.907 (Limitations on Number of Courses That May be Dropped Under Certain Circumstances), Education Code, limits the number of courses an undergraduate student can drop at a higher education institution without incurring an academic penalty while remaining enrolled. Institutions may not permit a student to drop more than six courses, including any course a transfer student has dropped at another institution. An institution may permit a student to drop more than the maximum if the student shows good cause, such as a severe illness or the death of a family member.

Section 61.0595 (Funding for Certain Excess Undergraduate Credit Hours), Education Code, limits state funding for higher education institutions for certain excess undergraduate semester-credit hours. Undergraduate students are limited to the minimum number of semester-credit hours required for graduation with a bachelor's degree in their particular degree plan, plus 30 semester-credit hours beyond their specific degree plan. If a student exceeds the

semester-hours limit, the institution is not reimbursed through the formula funding system. Current law allows public colleges and universities to charge students who earn course credits exceeding the 30-hour limit with additional tuition, but the charge cannot be higher than the tuition rate for nonresident students. This bill:

Requires an institution of higher education to provide written notice to each undergraduate student regarding the provisions of Section 51.907, Education Code, before the end of the first semester in which the student is enrolled at the institution, and authorizes that notice to be delivered by electronic mail or another method of written communication, as determined by the institution.

Provides that that change made by this Act applies beginning with the fall 2011 semester.

Provides that semester credit hours earned by the student before receiving an associate degree that has been previously awarded to the student in excess of the number of semester credit hours required for the completion of that degree are not counted for purposes of determining whether the student has previously earned the number of semester credit hours specified by Section 61.0595(a) (relating to limitations regarding the formula funding for certain semester credit hours earned by a resident undergraduate student), Education Code.

Provides that that change made by this Act applies beginning with the funding recommendations made under Section 61.059 (Appropriations), Education Code, for the 2013-2014 academic year.

National Research University Fund Distribution—H.B. 1000

by Representative Branch et al.—Senate Sponsors: Senators Zaffirini and Ellis

A recent constitutional amendment established the national research university fund (NRUF) to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in Texas to achieve national prominence as major research universities. This bill:

Provides that a general academic teaching institution becomes eligible to receive an initial distribution of money appropriated under Subchapter G (National Research University Fund), Chapter 62 (Constitutional and Statutory Funds to Support Institutions of Higher Education), Education Code, for a state fiscal year if the institution is designated as an emerging research university under THECB's accountability system; in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made the institution expended at least \$45 million restricted research funds; and the institution satisfies certain other criteria.

Requires THECB by rule to prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining the eligibility of institutions under Section 62.145 (Eligibility to Receive Distributions From Fund), Education Code, and the amount of restricted research funds expended by an eligible institution in a state fiscal year.

Provides that information submitted to THECB by institutions for the purposes of establishing eligibility and THECB's certification or verification of that information are subject to a mandatory audit by the state auditor; and authorizes THECB to request one or more audits by the state auditor as necessary or appropriate at any time after an eligible institution begins receiving distributions and requires such an audit to include certain elements.

Requires the comptroller to reimburse the state auditor from money appropriated from NRUF for the expenses of any conducted audits, and provides that the total amount appropriated from NRUF distribution in a state fiscal year does not include any portion of the amount appropriated that is used to reimburse the costs of a conducted audit.

Prohibits the total amount appropriated from NRUF for any state fiscal year from exceeding an amount equal to 4.5 percent of the average net market value of the investment assets of NRUF for the 12 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year.

Provides that of the total amount appropriated from NRUF for distribution in a state fiscal year, each eligible institution is entitled to a distribution in an amount equal to the sum of one-seventh of the total amount appropriated and an equal share of any amount remaining after that distribution is calculated, not to exceed an amount equal to one-fourth of that remaining amount; and requires the comptroller to retain within NRUF any portion of the total amount appropriated from NRUF for distribution that remains after all distributions are made for a state fiscal year.

Provides that for each fiscal year of the state fiscal biennium ending August 31, 2013, the maximum amount permitted by Section 20 (National Research University Fund), Article VII (Education), Texas Constitution, and by provisions added by this bill is appropriated to the comptroller from the NRUF for distribution to eligible state universities.

Tuition and Fee Exemptions for Certain Firefighters and Peace Officers—H.B. 1163

by Representative Keffer—Senate Sponsor: Senator Hegar

Legislation extended the tuition exemption program for firefighters enrolled in fire science curricula to volunteer firefighters who hold certain certifications or their equivalents. Additional legislation extended the tuition and laboratory fee exemption program for firefighters enrolled in fire science curricula to peace officers employed by political subdivisions of the state who enroll in courses offered as part of a criminal justice or law enforcement management-related curriculum designed for peace officers. There are concerns that statutory conflicts have emerged because those bills changed the same section of the Education Code. This bill:

Reenacts Section 54.208 (Firefighters Enrolled in Fire Science Courses), Education Code, as amended by Chapters 1285 (H.B. 2013) and 1299 (H.B. 2347), Acts of the 81st Legislature, Regular Session, 2009.

Amends Subchapter D (Exemptions From Tuition), Chapter 54 (Tuition and Fees), Education Code, by adding Section 54.2081 (Peace Officers Enrolled in Certain Courses), to require the governing board of an institution of higher education to exempt an undergraduate student who meets certain criteria, including being employed as a peace officer by Texas or a political subdivision of Texas and being enrolled in a criminal justice or law enforcement-related degree program at the institution, from the payment of tuition and laboratory fees charged by the institution for a criminal justice or law enforcement course or courses.

Prohibits a student from receiving an exemption for any course if the student has previously attempted a number of semester credit hours in excess of the maximum number of hours specified in statute as eligible for funding under the formulas established under Section 61.059 (Appropriations), Education Code, and prohibits the governing board of an institution of higher education from providing exemptions to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

Requires THECB to adopt rules governing the granting or denial of an exemption to certain peace officers, including rules relating to the determination of a student's eligibility for an exemption and a uniform listing of degree programs covered by the exemption.

Requires the governing board of the institution of higher education to report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with Section 54.2081 for a semester if the legislature does not specifically appropriate funds to an institution in an amount sufficient to pay the institution's costs in complying with that section for that semester.

Training for Members of Governing Boards of Public Junior College Districts—H.B. 1206*by Representative Guillen—Senate Sponsor: Senator Zaffirini*

Currently, a training program is required for all members appointed to the governing boards of institutions of higher education, but is not required for elected members. The training program also is not required to include certain important information relating to financial training. This bill:

Requires each member of a governing board of an institution of higher education, rather than only members who are appointed, to attend at least one training program during the member's first two years of service as a member of a governing board of an institution.

Requires that the training program for members of a governing board of a public junior college district include information about best practices in campus financial management, financial ratio analysis, and case studies using financial indicators, and requires the minutes of the last regular meeting held by a governing board of a public junior college district during a calendar year to reflect whether each member of the governing board has completed any training required to be completed by the member as of the meeting date.

Developmental Education—H.B. 1244*by Representative Castro—Senate Sponsor: Senator West*

Developmental education is a sequence of non-credit-bearing higher education courses that are designed to remediate an incoming college student to the point of freshman-level academic competency in the areas of reading, mathematics, and writing. Concern has been expressed that a significant percentage of the first-time degree-seeking students in Texas who enroll in higher education each fall are required to take at least one developmental education course. This bill:

Requires THECB to prescribe a single standard or set of standards for each assessment instrument designated by THECB for use under Section 51.3062 (Success Initiative), Education Code, to effectively measure student readiness as demonstrated by current research.

Requires an institution of higher education to make a determination regarding when a student is ready to perform freshman-level academic coursework using learning outcomes for developmental education courses developed by THECB based on established college and career readiness standards and student performance on one or more appropriate assessments.

Prohibits an institution of higher education from requiring enrollment in developmental coursework with respect to a student determined to have met college-readiness standards; and requires an institution that requires a student to enroll in developmental coursework to offer a range of developmental coursework or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

Requires an institution of higher education to base developmental coursework on research-based best practices that include certain components, and requires THECB to adopt rules for the implementation of developmental coursework based on research-based best practices.

Authorizes the governing board of an institution of higher education to exempt from the payment of tuition authorized by Chapter 54 (Tuition and Fees), Education Code, a student who is participating in an approved non-semester-length developmental education intervention.

Repeals Section 51.3062(e) (relating to requiring THECB to designate additional assessment instruments for use by institutions of higher education), Education Code.

Payment of Tuition and Mandatory Fees—H.B. 1341

by Representative Walle—Senate Sponsor: Senator Zaffirini

Current state law and the General Appropriations Act are inconsistent in their treatment of tuition payment dates, and there are concerns that this fails to address alternative educational terms, such as intersessions, and does not allow sufficient flexibility for a student whose tuition and fees may change after the start of a semester. This bill:

Requires the governing board of each institution of higher education to provide for the payment of tuition and mandatory fees for a semester or term of 10 weeks or longer through either full payment of tuition and mandatory fees not later than a date established by the institution or payment in installments under one or more payment plan options that require the first payment to be made not later than a date established by the institution.

Requires the governing board of each institution of higher education, for a term of less than 10 weeks, to provide for the payment of tuition and mandatory fees by requiring full payment of tuition and mandatory fees not later than a date established by the institution and authorizes the governing board to provide for the payment of tuition and mandatory fees by requiring payment in installments under one or more payment plan options that require the first payment to be made not later than a date established by the institution.

Prohibits a date established by an institution regarding such semesters or terms from being later than the date established by THECB for certifying student enrollment for the semester or term for purposes of formula funding.

Authorizes an institution of higher education to collect on a due date, subsequent to a due date established by an institution regarding such semesters or terms, unpaid tuition and mandatory fee balances resulting from an adjustment to a student's enrollment status or an administrative action, or unpaid residual balances of tuition and mandatory fees constituting less than five percent of the total amount of tuition and mandatory fees charged to the student by the institution for that semester or term.

Makes numerous changes to Section 54.007 (Option to Pay Tuition by Installment), Education Code, and Section 54.0071 (Authority of Institution to Provide Payment Options for Student with Delayed Financial Aid), Education Code, to change references from "fees" to "mandatory fees."

Student Loan Repayment Assistance for Correctional Health Care—H.B. 1908

by Representative Madden—Senate Sponsor: Senator Whitmire

It is often difficult to recruit a sufficient number of physicians, mental health professionals, nurses, and mid-level practitioners, including physician assistants and nurse practitioners, to provide adequate medical and mental health care for inmates under the jurisdiction of the Texas Department of Criminal Justice (TDCJ). In addition, many TDCJ and Texas Youth Commission (TYC) facilities are located in rural areas of Texas, where it can be difficult to recruit health care professionals. This bill:

Establishes that a physician is eligible to receive student loan repayment assistance to provide health care services to recipients under the medical assistance program, enrollees under the child health plan program, and persons committed to a secure correctional facility operated by or under contract with TYC or persons confined in a secure correctional facility operated or under contract with any division of TDCJ.

Limits repayment assistance grants to the first 10 physicians who establish eligibility for those grants each year.

Authorizes the Correctional Managed Health Care Committee to provide student loan repayment assistance for medical and mental health care physicians and other staff providing correctional managed health care from funds appropriated for purposes of correctional managed health care.

Advanced Research Program—H.B. 2631*By Representative Branch—Senate Sponsor: Senator Zaffirini*

The Texas Legislature established the advanced research program to encourage and provide support for basic research conducted by faculty members and students at institutions of higher education in certain fields of study. This bill:

Renames in statute the advanced research program as the Norman Hackerman advanced research program.

Provides that the program is funded by appropriations and by gifts, grants, and donations made for the purposes of the program. Deletes existing text authorizing that the total funds appropriated to the program to be at least equal to 10 percent of the average amount of the federally sponsored research funds allocated to all institutions of higher education annually during the preceding three years.

Repeals Section 142.004(b), Education Code, relating to requiring the comptroller of public accounts to issue warrants to each eligible institution in a certified amount.

Mandatory Emergency Alert Systems at Institutions of Higher Education—H.B. 2758*by Representative Pena—Senate Sponsor: Senator Zaffirini*

Interested parties contend that accessible and immediate information is vital to the safety and security of students and staff in the event of an emergency on a college or university campus. Many colleges and universities have instituted various systems to alert students and staff of emergencies and other important notices. This bill:

Requires each institution of higher education and private or independent institution of higher education to establish an emergency alert system for the institution's students and staff, including faculty, and requires that the emergency alert system use e-mail or telephone notifications in addition to other alert methods the institution considers appropriate to provide timely notification of emergencies affecting the institution or its students and staff.

Requires the institution, at the time a student initially enrolls or registers for courses or a staff member begins employment, to obtain a personal telephone number or e-mail address from the student or staff member to be used to notify the individual and register the student or staff member in the institution's emergency alert system.

Authorizes a student or staff member to elect not to participate in the emergency alert system. Authorizes such an election to be submitted electronically or in writing, as chosen by the institution, and requires that it be renewed at the start of each academic year.

Provides that the personal identifying information obtained from an individual for the purpose of the emergency alert system, including an e-mail address or telephone number, is confidential and not subject to disclosure under Section 552.021 (Availability of Public Information), Government Code.

Requires each institution of higher education and private or independent institution of higher education to implement the emergency alert system not later than the spring 2012 semester.

Tuition Equalization Grants—H.B. 2907*by Representative Branch—Senate Sponsor: Senator Carona*

Provisions of law authorizing tuition equalization grants (TEGs) need to be updated to make clarifications and to better reflect a program that has moved from central administration to campus-based administration. This bill:

Requires a person to meet certain requirements to be eligible for a TEG, including being a Texas resident as defined under Subchapter B (Tuition Rates), Chapter 54 (Tuition and Fees), Education Code, and not being a recipient of any form of athletic scholarship while receiving the TEG.

Authorizes a person to receive a TEG in a subsequent academic year in which the person is enrolled at an approved institution after qualifying for a TEG only if the person meets certain requirements, including making satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled and having completed at least 75 percent of the semester credit hours attempted in the person's most recent full academic year.

Redesignates Section 61.2251 (Reestablishing Eligibility for Grant), Education Code, as added by Chapter 1181 (S.B. 1227), Acts of the 79th Legislature, Regular Session, 2005, as Section 61.2252, Education Code.

Requires the institution at which the student is enrolled, rather than THECB, upon determination of a person's financial need to certify the amount of the TEG based on financial need but not to exceed a grant amount of more than that specified in the appropriation by the legislature, or more than the difference between the tuition at the private institutions attended and the tuition at public colleges and universities.

Provides that a TEG for an academic period for an undergraduate student who establishes exceptional financial need in accordance with the procedures and rules of THECB may be certified by the institution at which the undergraduate student is enrolled, rather than THECB, in an amount not to exceed 150 percent of the amount of the grant that the student would otherwise have been awarded for that period.

Requires THECB to include in its annual report to the legislature on financial aid in Texas a breakdown of TEG recipients by ethnicity indicating the percentage of each ethnic group that received tuition equalization grant money at each institution.

Opportunities for Medical School Graduate Assessment—H.B. 2908

by Representatives Branch and Sarah Davis—Senate Sponsor: Senator Zaffirini

Interested parties assert that Texas currently has more students who graduate from state medical schools each year than it has spots in graduate medical education programs, or "residencies," which leads many students to enroll in residency programs in other states. Those parties further argue that it is a common practice for individuals to ultimately practice medicine in the same region in which they completed their residency, meaning that the state is not seeing a full return on its investment in health care education. Finally, those parties note that this comes at a time when, as the population continues to increase, Texas faces a growing need for medical professionals. This bill:

Requires that an assessment of the adequacy of opportunities for medical school graduates in Texas to enter graduate medical education in Texas be included in the five-year master plan for higher education in Texas developed by the THECB.

Requires that the assessment compare the number of first-year graduate medical education positions available annually with the number of medical school graduates; include a statistical analysis of recent trends in and projections of the number of medical school graduates and first-year graduate medical education positions in Texas; develop methods and strategies for achieving a certain ratio for the number of first-year graduate medical education positions to the number of medical graduates in Texas; evaluate current and projected physician workforce needs of Texas in the development of additional first-year graduate medical education positions; and examine whether Texas should ensure that a first-year graduate medical education position is created in Texas for each new medical student position established by a medical and dental unit.

Certain Agreements and T-STEM Challenge Scholarship Program—H.B. 2910

by Representatives Branch and Dukes—Senate Sponsor: Senator Zaffirini

In order to ensure economic competitiveness and individual opportunity, Texas needs to increase the number of its students who graduate with a postsecondary degree or credential. Private sector entities are exploring opportunities for a public-private partnership that will build on existing efforts and bring greater coordination to increasing graduation rates at state postsecondary institutions. This bill:

Authorizes THECB, in partnership with institutions of higher education, to enter into an agreement with nonprofit organizations to assist THECB in identifying and implementing effective methods for increasing degree completion rates at institutions of higher education, and provides certain actions that can be taken relating to such an agreement.

Authorizes THECB to establish a grant program to fund projects, including the award of a grant to a nonprofit organization that enters into such an agreement with THECB, related to the improvement of degree completion rates, requires THECB by rule to prescribe the application procedure and criteria for awarding a grant if THECB establishes such a grant program, and authorizes such grants awarded by THECB to be funded by appropriations; and gifts, grants, or other donations.

Requires THECB, not later than January 1, 2012, to report to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency information regarding partnerships and the grant program.

Requires THECB to establish and administer the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which THECB provides a scholarship to a student who meets certain initial eligibility criteria and continuing eligibility criteria, and provides the criteria by which an institution must fulfill to initially qualify and continuing qualify as an eligible institution regarding the T-STEM Challenge Scholarship program.

Requires THECB, subject to available funding, to award scholarships, with at least 50 percent of the amount awarded from private funds, authorizes an eligible student to receive such a scholarship for not more than two academic years, and authorizes THECB to use any available revenue, including legislative appropriations, and to solicit and accept gifts and grants for such purposes.

Guaranteed Student Loans and Alternative Education Loans—H.B. 2911

by Representative Branch—Senate Sponsor: Senator Patrick

Currently, higher education loan authorities in Texas finance guaranteed student loans through a combination of tax-exempt and taxable bonds. They receive authority provided through the state's private activity bonding allocation process. A recent change in federal law now makes the federal government the only issuer of guaranteed student loans. In response to this change in federal law, the higher education loan authorities seek to make alternative education loans using the existing private activity bonding allocation and to change the method of allocating private activity bond authority. This bill:

Authorizes a higher education loan authority, upon certain approval, to issue revenue bonds or otherwise borrow money to obtain funds to purchase or to make guaranteed student loans or alternative education loans, and authorizes such an authority to cause money to be expended to make or purchase for its account guaranteed student loans that are guaranteed by the Texas Guaranteed Student Loan Corporation, other guaranteed student loans, or alternative education loans that are executed by or on behalf of students who are residents of Texas or have been admitted to attend an accredited institution within Texas.

Requires the authority to contract with a nonprofit corporation whereby such a corporation will provide the reports and other information required for continued participation in the federally guaranteed loan program or in an alternative education loan program.

Authorizes a nonprofit corporation, acting in certain capacities or on its own behalf issuing securities or otherwise obtaining funds to purchase or make guaranteed student loans or alternative loans, to undertake certain actions, including exercising the powers granted by Chapter 20 (General Provisions), Business Organizations Code, Chapter 22 (Nonprofit Corporations), Business Organizations Code, and any provision of Title 1 (General Provisions), Business Organization Code, applicable to a nonprofit corporation.

Redefines "qualified nonprofit corporation" and "student loan bond allocation," and deletes several other definitions.

Provides that each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements for a program year is entitled to receive a student loan bond allocation for that year.

Repeals Section 1372.033(c) (relating to a statement that must be included in an application for a student loan bond allocation), (e) (relating to entitling each applicant with additional to a certain proportion of the remaining amount if there is a remaining amount to be allocated), and (f) (relating to entitling an applicant to 50 percent of the remaining amount to be allocated, if an applicant's share of the remaining amount to be allocated is greater than 50 percent), Government Code.

Access to Criminal History Record Information—H.B. 2937

by Representative Lewis—Senate Sponsor: Senator Zaffirini

Currently, THECB has the authority to conduct secured criminal history background checks relating to persons with access to certain information resources or to information resource technologies employed by THECB. This Act expands THECB's authority to conduct secure background checks relating to other employees who have access to sensitive information. This bill:

Redefines a "security-sensitive position."

Entitles THECB and each institution of higher education, rather than only an institution of higher education, to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas (DPS) that relates to a person who is an applicant for a security-sensitive position at THECB or the institution, as applicable.

Requires that all criminal history record information obtained about an individual be destroyed by THECB or the chief of police of the institution of higher education, as applicable, as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment, or after the information is used for its authorized purpose if the individual is not hired for a security-sensitive position.

Fixed Tuition Rate Program for Certain Transfer Students—H.B. 2999

by Representative Lewis—Senate Sponsor: Senator Zaffirini

Texas must increase enrollment and success in higher education in order to be competitive in the global economy and could increase enrollment in higher education while also achieving savings if the state could incentivize more students to complete an associate's degree before transferring to a four-year university. This bill:

Defines "coordinating board," "general academic teaching institution," and "lower-division institution of higher education."

Authorizes a general academic teaching institution to develop a fixed tuition rate program for qualified students who agree to transfer to the institution within 12 months after successfully earning an associate degree at a lower-division institution of higher education.

Requires a general academic teaching institution, under such a fixed tuition rate program, to guarantee to a participating student enrolled in an associate degree program at a lower-division institution of higher education transfer admission to the general academic teaching institution within 12 months after successful completion of the associate degree program; and to charge tuition to a participating student for any semester or other academic term during a period of at least 24 months following the student's initial enrollment in the institution at the same rate the general academic teaching institution would have charged the student during the later of either the fall semester of the student's freshman year at another institution of higher education had the student entered the general academic teaching institution as a freshman student or the fall semester of the second academic year preceding the academic year of the student's initial enrollment in the general academic teaching institution.

Requires a general academic teaching institution that develops a fixed tuition rate program to prescribe eligibility requirements for participating in that program and to notify applicants for transfer admission from lower-division institutions of higher education regarding that program.

Student Degree Plans and Credit Transfers for an Associate Degree—H.B. 3025

by Representative Branch et al.—Senate Sponsor: Senator Zaffirini

Each year thousands of students enter community colleges with the intent to transfer to a four-year university, but some reports indicate that only a minority succeed in doing so. Students are more likely to succeed if given early and consistent advising and a clear degree plan to follow. This bill:

Requires each student enrolled in an associate or bachelor's degree program at an institution of higher education to file a degree plan with the institution not later than a specified point in the student's postsecondary education; and requires a student who is required to have filed a degree plan to verify to the institution at each registration for a semester or term that the student has filed a degree plan with the institution and the courses for which the student is registering are consistent with that degree plan.

Requires the institution of higher education, if such a student does not timely file a degree plan, to notify the student that the degree plan is required by law; requires the student to consult with an academic advisor regarding a degree plan; and prohibits the student from obtaining an official transcript from the institution until the student has filed a degree plan with the institution.

Requires a general academic teaching institution to request authorization from students at the institution who have fulfilled certain criteria and who transferred from or previously attended a lower-division institution of higher education for the institution to release the student's transcript to the lower-division institution that the student previously attended for the purpose of determining whether the student has earned the credits required for an associate degree awarded by the lower-division institution of higher education.

Requires a lower-division institution of higher education to review a student transcript received from a general academic teaching institution and authorizes the lower-division institution to award the student an associate degree if the lower-division institution determines the student has earned the credits required to receive an associate degree awarded by the lower-division institution.

Eligibility Requirements for the Texas Educational Opportunity Grant—H.B. 3577

by Representative Larry Gonzales—Senate Sponsor: Senator Zaffirini

The Texas Educational Opportunity Grant program was created to provide tuition grants to students attending two-year colleges who meet certain financial need criteria. The program has grown to provide over \$6 million worth of grants to more than 4,000 students, many of whom come from families with a household income of less than \$30,000. A similar tuition grant program, the Towards Excellence, Access, and Success (TEXAS) Grant, has curriculum requirements for which many graduating high school students qualify, which has led to a drain on the amount of funding available for TEXAS grants. This bill:

Prohibits a person from receiving a Texas Educational Opportunity Grant and a TEXAS Grant for the same semester or other term, regardless of whether the person is otherwise eligible for both grants during that semester or term.

Provides that a person who but for that prohibition would be awarded both grants for the same semester or other term is entitled to receive only the grant of the greater amount.

Provides that the changes in law made by this Act apply beginning with Texas Educational Opportunity Grants awarded for the 2011-2012 academic year.

Emergency Tuition, Fee, and Textbook Loans—H.B. 3578

by Representative Larry Gonzales—Senate Sponsor: Senator Zaffirini

The maximum amount of an emergency loan that a public institution of higher education may offer to an eligible student who is unable to pay tuition and mandatory fees is insufficient to cover certain education costs. This bill:

Requires the governing board of each institution to adopt rules providing for the terms of the emergency loan, subject to certain requirements, including that the loan amount per student may not exceed an amount equal to the tuition, mandatory fees, and cost of textbooks for the courses in which the student is actually enrolling.

Repayment Assistance for Certain Physician Educational Loans—H.B. 3579

by Representative Larry Gonzales—Senate Sponsor: Senator Zaffirini

Certain physicians who provide health care services to certain recipients are currently eligible to receive educational loan repayment assistance from the Texas Higher Education Coordinating Board (THECB), but only toward the principal of such a loan. This bill:

Repeals Section 61.535(b) (authorizing a repayment made under this subchapter to be applied only to the principal amount of the loan), Education Code.

Dropout Recovery Program and the Texas Save and Match Program—H.B. 3708

by Representative Hochberg—Senate Sponsor: Senator Zaffirini

Public schools face the challenge of helping all students graduate, but many students fail to graduate on time and are classified as dropouts. As a consequence, many of these students struggle to find gainful employment and are unable to pursue higher education. This bill:

Authorizes an applicable public junior college, beginning September 1, 2012, to enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the

public junior college a dropout recovery program for certain students who are under 26 years of age who meet certain criteria to successfully complete and receive a diploma from a high school of the appropriate partnering school district; and provides the criteria for determining whether a public junior college can participate in such a partnership.

Requires the public junior college to design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification; to integrate certain research-based strategies into the dropout recovery curriculum to assist students in becoming able academically to pursue postsecondary education; to offer certain advance academic and transition opportunities; and to coordinate with each partnering school district to provide in the articulation agreement that the school district retains certain accountability regarding the students participating in the program.

Authorizes the public junior college district to receive from each partnering school district for each student from that district enrolled in such a dropout recovery program an amount negotiated between the junior college district and the partnering district, and provides that such a public junior college is eligible to receive dropout prevention and intervention program funds appropriated to the Texas Education Agency (TEA).

Requires TEA to accept and make available to provide tuition exemptions under Section 54.214 (Educational Aides), Education Code, gifts, grants, and donations made to TEA, and requires the commissioner of education to transfer those funds to THECB to distribute to institutions of higher education that provide such exemptions.

Defines several terms, including "program entity," and lists several powers possessed by the Prepaid Higher Education Tuition Board necessary or proper to carry out its duties regarding the Texas Save and Match Program.

Requires the Prepaid Higher Education Tuition Board, in cooperation with the program entity, to administer the Texas Save and Match Program, under which money contributed to a savings trust account by an account owner under a higher education plan or paid by a purchaser under a prepaid tuition contract on behalf of an eligible beneficiary may be matched with contributions made by any person to the program entity or with money appropriated by the legislature for the program to be used by the Prepaid Higher Education Tuition Board to make additional savings trust account contributions or in purchasing additional tuition units under prepaid tuition contracts.

Requires that a beneficiary meet certain criteria in order to be initially eligible to participate in the program and to be initially eligible to receive matching funds under the program, and lists reasons that a matching account established by the Prepaid Higher Education Tuition Board or program entity on behalf of a beneficiary is forfeited and reverts to the Prepaid Higher Education Tuition Board or program entity.

Authorizes the Prepaid Higher Education Tuition Board to use certain funds to establish pilot projects under the Texas Save and Match Program in an effort to incentivize participation in the higher education savings program and the prepaid tuition unit undergraduate education program.

Establishes the Texas Save and Match Trust Fund as a trust fund held with the comptroller, and authorizes money in the fund to be spent without appropriation and only to establish matching accounts, make deposits, purchase tuition units, and award matching grants and scholarships under the Texas Match and Save Program and to pay the costs of program administration and operations.

Authorizes the Prepaid Higher Education Tuition Board to invest, reinvest, and direct the investment of any available money in the fund, requires the interest and income from the assets of the fund be credited to and deposited in the fund, and authorizes the board and the program entity to enter into an agreement under which the board may hold and manage funds of the program entity and provide services to the program entity.

Requires the commissioner of education to award to eligible persons credits in certain amounts, in a total amount not to exceed the amount of funds appropriated for the current state fiscal year to pay for a state credit to apply toward tuition or tuition and mandatory fees, as applicable, at a public or private institution of higher education in Texas.

Requires the commissioner of education, on receipt of a report from THECB, to transfer to THECB, from funds appropriated for the purpose of the Early High School Graduation Scholarship program, an amount commensurate with the amount of funds appropriated to pay each eligible institution of higher education the amount of state credit for tuition or tuition and mandatory fees that is applied by the institution during the period covered by the report.

Prohibits the right of a person to assets held in or a right to receive payments or benefits under any fund or plan established under Subchapter G (Higher Education Savings Plan), Subchapter H (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II), or Subchapter I (Texas Save and Match Program), Chapter 54 (Tuition and Fees), Education Code, from being considered for the purposes of determining the person's eligibility for a TEXAS grant or any other-state-funded student financial assistance, determining eligibility for the state child health plan, determining certain financial assistance to an individual for the support of dependent children, and determining eligibility for medical assistance.

Authorizes the Health and Human Services Commission (HHSC) to consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program in determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled; and requires HHSC to seek a federal waiver authorizing the HHSC to exclude, for purposes of determining the eligibility of an applicant, the right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary.

Repeals Section 54.7521 (Texas Save and Match Program), Education Code.

Repeals Section 56.202(b) (relating to a portion of the savings to the Foundation School Program that occur as a result of the Early High School Graduation Scholarship program being dedicated to state credits for tuition or tuition and mandatory fees provided to an eligible person under the program), Education Code, and Section 56.208 (Funding), Education Code.

Provides that the Texas Save and Match Program established by H.B. 3708 is an expansion of the Texas Save and Match program created under Section 54.7521, Education Code, and authorizes the tax-exempt charitable organization created to provide matching funds under that program to continue to accept tax-deductible donations for the purpose of providing matching funds under three program on or after the effective date of the repeal of Section 54.7521.

Listing of Certain Private Institutions of Higher Education in Texas—H.J.R. 130

by Representative Branch—Senate Sponsor: Senator Birdwell

On October 29, 2010, the United States Department of Education (USDE) released Final Regulations on Program Integrity Issues in an effort to strengthen federal student aid programs at postsecondary institutions. One provision seeks to clarify the minimum a state must do to authorize a postsecondary institution so that the institution is able to participate in federal student aid and other federal funding programs. Specifically, 34 C.F.R. Section 600.9 was amended to require that postsecondary institutions be "established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action" and that they be "authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate."

Section 61.003 (Definitions), Education Code, cites state universities by name and Section 61.063 (Listing and Certification of Junior Colleges), Education Code, establishes a process for naming public community colleges, but state law regards private institutions of higher education differently. This bill:

Names the private postsecondary educational institutions in Texas, and notifies the USDE that those institutions are authorized in the State of Texas to operate educational programs beyond secondary education, including programs leading to a degree or certificate, and that therefore the State of Texas has met the conditions of 34 C.F.R. Section 600.9.

Requires the Texas Secretary of State to forward official copies of this resolution to the secretary of education, to the president of each college and university named, to the president of the Senate and the speaker of the House of Representatives of the United States Congress, and to all the members of the Texas delegation to Congress with the request that this resolution be entered in the Congressional Record as a memorial to the Congress of the United States of America.

Administration and Business Affairs of Public Institutions of Higher Education—S.B. 5

by Senator Zaffirini—House Sponsor: Representative Branch

Over time, state laws become a framework of micromanagement of the institutions and the accumulation of required reviews, approvals, and restrictions increase the costs of administration, often without sufficient corresponding value in coordination and oversight. This bill:

Authorizes the governing board of each institution of higher education to maintain unsecured deposits in a foreign bank as necessary to support the institution's academic and research operations in the foreign county in which the bank is located, provided that no appropriated funds or tuition funds other than those collected from students enrolled in the affected programs are deposited, and requires the foreign bank to fulfill certain requirements.

Requires each institution of higher education to prepare a complete annual financial report as prescribed by Section 2101.011 (Financial Information Required of State Agencies), Government Code.

Authorizes an institution of higher education to maintain an unclaimed money fund and transfer to that fund a credit balance of less than \$25 held by an institution that is presumed abandoned; requires the institution to take certain actions regarding the fund; and requires the institution to use the fund to pay the claims of persons establishing ownership of amounts transferred to the fund and to hold and account for the unclaimed money fund as educational and general funds of the institution.

Requires each institution of higher education to post on the institution's website a copy of the institution's financial transactions to the extent necessary to provide certain information for each payment drawn from money appropriated from the state general revenue fund or received as student tuition fee payments.

Provides that a state security issued by an institution of higher education, or issued at the request of or for the benefit of an institution, is not subject to Bond Review Board approval if the institution or the university system of which the institution is a component has an unenhanced long-term debt rating of at least AA- or its equivalent and the general revenue of Texas is not pledged to the payment of the security.

Amends Section 51.923 (Qualifications of Certain Business Entities to Enter into Contracts with an Institution of Higher Education), Education Code, to redefine "business entity," and provides that a business entity is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education have an interest in the business entity.

Provides that an institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has an interest if the interest is not a substantial interest or, if the interest is a substantial interest, the board member discloses that interest in a meeting held in compliance with certain statute and refrains from voting on the contract or transaction requiring board approval; provides criteria for determining whether a member of a governing board has a substantial interest in a business entity; and provides that a violation does not render an action of the governing board voidable unless the contract or transaction that was the subject of the action would not have been approved by the governing board without the vote of the member who caused the violation.

Authorizes a local government and an institution of higher education or university system to contract with one another to perform any governmental functions and services, and provides that any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract if the terms of the contract provide for payment based on cost recovery.

Authorizes the governing board of a university or of an institution of higher education that is not a component institution of a university system to authorize its employees to elect a payroll deduction for any purpose that the governing board determines serves a public purpose and benefits employees; authorizes the board to adopt policies and procedures governing such payroll deductions; and provides requirements regarding such a payroll deduction.

Provides that board approval of a project at an institution of higher education is not required under Section 61.0572 (Construction Funds and Development of Physical Plants), Education Code, or Section 61.058 (New Construction and Repair and Rehabilitation Projects), Education Code, if the institution notifies the board of the project and certifies to the board certain information; and provides that such a project is considered approved by the board if the staff review by the board determines that the certification is sufficient and that the information certified is consistent with the records of the board.

Requires each institution of higher education, other than a medical and dental unit, to report annually to THECB on the success of its students and the effectiveness of its Success Initiative.

Provides that a university system or institution of higher education is not required to make a report relating to certain laws that require such reporting on or after September 1, 2013, unless legislation enacted by the 83rd Legislature that becomes law expressly requires the institution or system to make the report.

Provides that a rule or policy of a state agency in effect on June 1, 2011, that requires reporting by a university system or an institution of higher education has no effect on or after September 1, 2013, unless the rule or policy is affirmatively and formally readopted before that date by a formal administrative rule published in the Texas Register and adopted in compliance with Chapter 2001 (Administrative Procedure), Government Code; and provides certain exceptions.

Provides that information maintained by or for an institution of higher education that would reveal the institution's plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to disclosure under Chapter 552, Government Code, unless the information has met certain requirements.

Removes the submission of a plan for a financial aid program which removes financial barriers to the educational aspirations of Texas citizens and an annual evaluation report covering each remedial-compensatory course or program offered at the college from being included in a plan submitted to the THECB by a junior college to develop programs to serve persons from certain backgrounds.

Requires the office of the governor and the Legislative Budget Board, in consultation with public institutions of higher education, to review the forms for higher education legislative appropriations requests to identify opportunities to

improve efficiency, provide better transparency of funding sources, eliminate unnecessary or duplicative requirements, and otherwise reduce the cost or difficulty of providing information related to appropriations request.

Provides that Sections 403.273(h) (authorizing the state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, to periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property), Government Code, Section 403.275 (Liability for Property Loss), Government Code, and Section 403.278 (Transfer of Personal Property), Government Code, apply to a university system or institution of higher education; and provides that Section 2101.0115 (Other Information Required of State Agencies), Government Code, Section 2254.0301 (Contract Notification), Government Code, and Section 412.053 (Annual Report by State Agency), Labor Code, do not apply to an institution of higher education or university system.

Provides that the exemption from Section 388.005 (Energy Efficiency Programs in Institutions of Higher Education and Certain Government Entities), Health and Safety Code, for a state agency or an institution of higher education applies only while that entity has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each year, rather than each calendar quarter, to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

Requires a student fee advisory committee established under Chapter 54 (Tuition and Fees), Education Code, to conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president of the institution; requires the procedures prescribed by the president to include certain information; and requires the final recommendations made by a student fee advisory committee to be recorded and made public.

Provides a list of institutions that compose the Texas A&M University System Health Science Center, and authorizes the board of regents of The Texas A&M University System to expend funds appropriated by the legislature for all lawful purposes of the health science center and its component institutions, as well as funds available under the authority of Section 18 (Texas A&M University System; University of Texas System; Bonds or Notes Payable from Income of Available University Fund), Article VII (Education), Texas Constitution, for the purposes expressed in that section for the support of the health science center and its component institutions.

Requires the board of regents of The Texas A&M University System to maintain a college of pharmacy, known as The Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy, as a component of the health science center.

Repeals numerous provisions in statute, including provisions in the Education Code and Government Code, and repeals some of those provisions effective September 1, 2011, or September 1, 2013.

TEXAS Grants—S.B. 28

by Senators Zaffirini and Wentworth—House Sponsor: Representative Branch et al.

The state does not fully fund the Toward Excellence, Access, and Success (TEXAS) Grant program and often there are significant numbers of students who do not receive the grant. This bill:

Requires THECB, from money appropriated by the legislature, to annually determine the allocation of money available for TEXAS grants among general academic teaching institutions and other eligible institutions and to distribute the money accordingly.

Requires THECB, in allocating money available for initial TEXAS grants for an academic year among general academic teaching institutions, to ensure that each of those institutions' percentage share of the total amount of

money for initial grants that is allocated to general academic teaching institutions for that year does not change from the institution's percentage share of the total amount of money for initial grants that is allocated to those institutions for the preceding academic year.

Requires THECB and the eligible institutions to give priority to awarding TEXAS grants to students who demonstrate the greatest financial need and whose expected family contribution does not exceed 60 percent of the average statewide amount of tuition and required fees; and requires a general academic teaching institution, in giving priority based on financial need to students who meet the requirements for the highest priority, to determine financial need according to the relative expected family contribution of those students, beginning with students who have the lowest expected family contribution.

Requires each general academic teaching institution, beginning with TEXAS grants awarded for the 2013-2014 academic year, to give highest priority to students who meet the eligibility criteria in Section 56.3041(2)(A) (relating to requiring a person, to be eligible initially for a TEXAS grant, to be a graduate of a public or accredited private high school who completed the recommended high school program or its equivalent and have accomplished at least two of four criteria), Education Code, in determining who should receive an initial TEXAS grant, and requires the institution to make awards to students who meet the eligibility criteria of Section 56.304(a)(2)(A) (relating to requiring a person, to be eligible initially for a TEXAS grant, to be a graduate of a public or accredited private high school in Texas who fulfills certain requirements), Education Code, if there is money available in excess of the amount required to award an initial TEXAS grant to all students meeting other criteria.

Requires a person graduating from high school on or after May 1, 2013, and enrolling in a general academic teaching institution to meet certain criteria in order to be eligible initially for a TEXAS grant, including being a graduate of a public or accredited high school in Texas who completed the recommended high school program or its equivalent and have accomplished at least two out of four academic requirements.

Provides that a student is considered to have satisfied eligibility requirements, if at the time an eligible institution awards TEXAS grants to initial recipients for an academic year the student has not completed high school or the applicant's final high school transcript is not yet available to the institution the student's available high school transcript indicates that at the time the transcript was prepared the student was on schedule to graduate from high school and to meet the eligibility requirements in time to be eligible for a TEXAS grant for the academic year.

Provides that a student is considered to have satisfied the associate degree requirement, if at the time an eligible institution awards TEXAS grants to initial recipients for an academic year a student who is an associate degree candidate has not completed that degree or the applicant's final college transcript is not yet available to the institution the student's available college transcript indicates that at the time the transcript was prepared the student was on schedule to complete the associate degree in time to be eligible for a TEXAS grant for the academic year.

Authorizes THECB or the eligible institution to require the student to forgo or repay the amount of an initial TEXAS grant awarded to the student if the student fails to meet the eligibility requirements after the issuance of the available high school or college transcript and authorizes a person who is required to forego or repay the amount of an initial TEXAS grant to subsequently become eligible to receive an initial TEXAS grant by satisfying the associate degree requirement and the other requirements of sections applicable to the person at the time the person reapplies for the TEXAS grant.

Provides that a person who fulfills certain requirements, including being eligible to receive an initial TEXAS grant in an academic year for which sufficient money was not available through legislative appropriations to allow THECB to award initial TEXAS grants to at least 10 percent of the persons eligible for initial TEXAS grants in that year, is eligible to receive an initial TEXAS grant in any academic year in which funding is sufficient to award initial TEXAS grants to eligible applicants for that year; and provides that the eligibility of such a person is not affected by the period

for which the person has been enrolled at an eligible institution or any statutory changes to the eligibility requirements for initial TEXAS grants that are enacted after the person first established eligibility for an initial TEXAS grant.

Provides that a such a person who is eligible for an initial TEXAS grant is entitled to the highest priority if the person was entitled to that priority when the person first established eligibility for an initial TEXAS; and that such a person may receive subsequent TEXAS grants and is not entitled to TEXAS grants for any previously completed academic year.

Requires THECB, not later than September 1 of each year, to provide a report that includes certain information to the legislative oversight committee regarding the operation of the TEXAS grant program.

Consolidation of Tuition Exemptions and Waivers in the Education Code—S.B. 32

by Senator Zaffirini—House Sponsor: Representative Branch

Tuition waivers allow special groups of Texas nonresident students to pay a reduced nonresident tuition amount and tuition exemptions allow special groups of Texas resident or Texas nonresident students to pay reduced tuition and fees. Tuition exemptions and tuition waivers are located throughout various statutes. This bill:

Renames Subchapter D (Exemptions from Tuition), Chapter 54 (Tuition and Fees), Education Code, to Subchapter D. Waivers, Exemptions, and Other Tuition and Fee Benefits; and transfers and redesignates numerous sections throughout Chapter 54, Education Code, into Subchapter D, Chapter 54, Education Code.

Reenacts Section 54.203, Education Code, as amended by Chapters 1340 (S.B. 93) and Chapter 1369 (S.B. 847), Acts of the 81st Legislature, Regular Session, 2009, and redesignates it as Section 54.341, Education Code; reenacts Section 54.211, Education Code, as amended by Chapters 45 (S.B. 43) and Chapter 1372 (S.B. 939), Acts of the 81st Legislature, Regular Session, 2009, and redesignates it as Section 54.366, Education Code; and transfers and redesignates Section 615.0225 (Education Benefits for Certain Survivors), Government Code, as Section 54.354, Subchapter D, Chapter 54, Education Code.

Authorizes a person employed by the entity with whom The University of Texas System enters into an agreement authorized by Section 65.45 (Science and Technology Development, Management, and Transfer), Education Code, or the person's spouse or child, to pay the tuition and fees charged to residents of Texas when enrolled in an institution of The University of Texas System.

Requires the governing board of an institution of higher education to charge nonresident students participating in the Academic Common Market and enrolled in programs designated under Section 160.07 (Academic Common Market), Education Code, the same amount charged resident students in such programs.

Authorizes a governing board to waive all or part of the tuition charged to a student under Section 54.0513 (Designated Tuition), Education Code, if it finds that the payment of such tuition would cause undue economic hardship on the student; and authorizes the governing board of an institution of higher education to waive all or part of any compulsory fee or fees authorized by Section 54.503 (Student Services Fee), Education Code, in the case of any student for whom the payment of the fee would cause an undue financial hardship, provided that the number of students to whom the waiver is granted for a semester or term does not exceed 10 percent of the institution's total enrollment for that semester or term.

Reenacts Section 824.602(a) Government Code, as amended by Chapter 674 (S.B. 132) and Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005.

Repeals Section 54.0513(d) (relating to authorizing a governing board to waive all or part of the tuition charged if it would cause an undue economic hardship on the student), Education Code; Section 54.503(e) (relating to authorizing the governing board of an institution to waive fees for students if their payment would cause an undue financial hardship, provided the number of students does not exceed 10 percent of the total enrollment, and authorizing the board to limit student participation in certain activities if the fee is waived), Education Code; Section 65.45(d) (relating to authorizing a person employed by entities with whom The University of Texas System (system) has entered into an agreement, or the person's spouse or child to pay the tuition and fees charged to residents of this state when enrolled in a system institution), Education Code; and Section 160.07(c) (relating to charging nonresident students from states participating in the Academic Common Market enrolled in certain programs the same amount charged resident students in such programs), Education Code.

Repeals Section 54.208, Education Code, as amended by Chapter 1285 (H.B. 2013) and Chapter 1299 (H.B. 2347), Acts of the 81st Legislature, Regular Session, 2009.

Requires the governing board of an institution of higher education to exempt a student who is employed as a firefighter by a political subdivision of Texas and who enrolls in a course or courses offered as part of a fire science curriculum from the payment of tuition and laboratory fees.

Requires the governing board of an institution of higher education to exempt an undergraduate student who meets certain criteria, including being employed as a peace officer by Texas or by a political subdivision of Texas, from the payment of tuition and laboratory fees charged by the institution for a criminal justice or law enforcement course or courses; and prohibits such an exemption from being granted in certain situations.

Requires the governing board of the institution of higher education to report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying if the legislature does not specifically appropriate funds to an institution in an amount sufficient to pay the institution's cost in complying for a semester.

Requires the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees any students enrolled in one or more courses offered as part of a fire science curriculum who meets certain requirements, including being employed as a firefighter by a political subdivision of Texas or who has been an active member of an organized volunteer fire department in Texas.

Requires the THECB to adopt rules governing the granting or denial of one of the above exemptions and to adopt a uniform listing of degree programs covered by those exemptions.

Academic Advising Assessment—S.B. 36

by Senator Zaffirini—House Sponsor: Representative Castro

Currently, there is no formal assessment system for academic advisors. This bill:

Requires THECB to establish a method for assessing the quality and effectiveness of academic advising services available to students at each institution of higher education, and requires THECB to consult with representatives from institutions of higher education, including academic advisors and other appropriate professionals, in establishing that assessment method.

Requires the assessment method to include the use of student surveys and identify objective, quantifiable measures for determining the quality and effectiveness of academic advising services at an institution of higher education.

Requires THECB to establish the assessment method not later than September 1, 2012.

Texas Guaranteed Student Loan Corporation—S.B. 40 [Vetoed]*by Senator Zaffirini—House Sponsor: Representative Callegari*

For over 30 years the Texas Guaranteed Student Loan Corporation (TGSLC) has helped persons wishing to attend an institution of higher education by providing solutions for overcoming financial barriers to attend such an institution. Currently, TGSLC activities are limited to the mission of the Federal Family Education Loan Program (FFELP) under which it was created.

According to federal law effective July 1, 2010, all federal Stafford, PLUS, and Consolidation loans must be made under the Federal Direct Loan Program (FDLP). Students and parents borrow directly from, and repay their loans to, the United States Department of Education. Many of the services performed by TGSLC at no charge under the FFELP, such as helping colleges and universities take appropriate steps to prevent loan defaults by their alumni, are still required. This bill allows TGSLC to continue to manage its existing FFELP portfolio for the life of the loans, as well as operate under the newly established FDLP. This bill:

Provides that the purpose of Chapter 57 (Guaranteed Student Loans), Education Code, is to establish the TGSLC; that TGSLC is a public nonprofit corporation and is subject to (Nonprofit Corporations), Business Organizations Code, except for certain exceptions; that TGSLC is subject to Chapter 551 (Open Meetings), Government Code, and Chapter 552 (Public Information), Government Code; that TGSLC is subject to Chapter 325 (Sunset Law), Government Code; and that Chapter 57 expires September 1, 2013, unless continued in existence as provided by Chapter 325.

Requires the governor to appoint the members of the board of directors of TGSLC, including five members who must be members of the faculty or administration of a postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965; to designate the chairman from among the board's membership; and prohibits a person from being one of the members of the board required to have knowledge of or experience in finance if the person fulfills certain criteria.

Provides certain requirements regarding the holding of the board or a board committee meeting by telephone conference call, including authorizing the board of TGSLC or a board committee to hold a meeting by telephone conference call only if a quorum of the board or board committee is physically present at one location of the meeting, provides notice requirements that are applicable to a telephone conference call meeting, and provides requirements regarding the meeting location where a quorum is physically present.

Authorizes TGSLC to participate in a revenue-generating activity by entering into a contract with certain entities, including the United States Department of Education, if the board determines that the activity is consistent with the TGSLC's purposes, revenue from the activity is sufficient to cover the costs of the activity within a defined period of time, and revenue from the activity will enable TGSLC to support certain educational purposes.

Requires TGSLC to submit a written report to the legislature and the Legislative Budget Board not later than December 1 of each even-numbered year regarding TGSLC's participation in revenue-generating activities, and requires certain information be included in that report.

Requires TGSLC to serve as the designated guarantee agency under FFELP in accordance with the Higher Education Act of 1965, 20 U.S.C. Section 1001 et seq., as amended, regulations adopted under that Act, and other applicable federal law.

Removes the requirement for TGSLC to establish certain postsecondary educational institutions and lender advisory committees and requires TGSLC to establish advisory committees as the board considers appropriate.

Removes the requirement for THECB if a student borrower defaults on a loan and TGSLC is required to honor the guarantee, to bring suit against a defaulting party in accordance with the requirements of the Higher Education Act of 1965, 20 U.S.C. Section 1001 et seq. and authorizes TGSLC to bring such a suit against the defaulting party in accordance with those requirements.

Requires TGSLC to maintain a federal fund and operating fund in accordance with certain sections of the Higher Education Act of 1965; requires the federal fund to be invested in accordance with Section 422A of the Higher Education Act of 1965; authorizes the operating fund maintained by TGSLC to be invested only in accordance with Chapter 2256 (Public Funds Investment), Government Code; and provides that authority to invest the operating fund in accordance with Chapter 2256, Government Code, complies with Section 422B of the Higher Education Act of 1965 (20 U.S.C. Section 1072b).

Requires the state auditor to periodically review TGSLC's activities in a manner consistent with the state auditor's audit plan under Chapter 321, Government Code, and requires TGSLC to reimburse the state auditor for all reasonable costs incurred by the state auditor in conducting a review.

Repeals Section 57.13(d) (relating to the comptroller of public accounts or the comptroller's designee serving as an ex officio voting member of the board of directors of TGSLC), Education Code; Sections 57.19(c) (relating to delegating powers of the board to certain persons), (g) (relating to an annual policy statement) and 57.19(h) (relating to the office of the governor's biennial report to the legislature), Education Code; Sections 57.41(c) (relating to the conditions under which TGSLC shall make a loan), and (d) (relating to participation in revenue-generating activities by TGSLC), Education Code; Section 57.42 (Reinsurance), Education Code; Section 57.43 (Insurance Premiums), Education Code; Section 57.44 (Eligible Borrowers), Education Code; Section 57.45 (Eligible Lenders), Education Code; Section 57.46 (Eligible Institutions), Education Code; and several subsections of Section 57.481 (Loan Default Prevention and Reduction), Education Code.

Donation of Surplus or Salvage Data Processing Equipment—S.B. 74

by Senator Nelson—House Sponsor: Representative Branch

Current law allows public universities to donate surplus or salvage computers and data processing equipment to public schools and assistance organizations, but not to hospitals. Rural hospitals often lack the computer equipment and resources needed to use health information technology to increase the quality of care. This bill:

Authorizes a university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002 (Definition), Government Code, to donate data processing equipment that is surplus or salvage property to a public or private hospital located in a rural county.

Statewide Plan for Developmental Education—S.B. 162

by Senator Shapiro—House Sponsor: Representative Branch

ACT recently estimated that only 20 percent of Texas's high school seniors are college ready and according to data collected at THECB, only 56 percent of students who attempt developmental education courses actually complete or pass these courses. Developmental education has traditionally been administered at community colleges, technical colleges, or four-year institutions without taking into account the best practices to most efficiently and effectively help students. This bill:

Requires THECB to develop a statewide plan for developmental education to be provided under Section 51.3062 (Success Initiative), Education Code, that assigns primary responsibility for developmental education to public junior

colleges, public state colleges, and public technical institutes; and provides for using technology, to the greatest extent practicable consistent with best practices, to provide developmental education to students.

Requires THECB, in developing the developmental education plan, to research relevant issues related to developmental education; to study and develop best practices for successful developmental education programs, including through use of pilot programs; and to assess various methods of providing developmental education to students to determine which methods, if any, should be implemented on a statewide basis, and requires the developmental education under the plan to include certain features.

Requires the developmental education plan to provide for ongoing training for developmental education program faculty members, tutors, and instructional aides at the institutions or other locations where those persons provide instruction, and ongoing research and improvement of appropriate developmental education programs, including participation by a group of institution of higher education faculty members selected by THECB, to monitor results of the programs; identify successful and unsuccessful program components; and identify possible solutions to program problems.

Requires THECB to submit to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of each legislative standing committee with primary jurisdiction over higher education, not later than December 1, 2012, a report concerning the initial development of the developmental education plan, including any recommendations for redesign or reassignment among institutions of higher education of existing programs or implementation of new programs and, if appropriate, recommendations for legislation.

Student Eligibility for Tuition Rebates—S.B. 176

by Senator Huffman—House Sponsor: Representative Branch

Section 54.0065 (Tuition Rebate For Certain Undergraduates), Education Code, provides that a student is eligible for a tuition rebate upon receiving a bachelor's degree if the student graduates in a timely manner and attempted no more than three credit hours in excess of the minimum number required to complete the degree program. Many high school students take dual credit classes to help satisfy high school graduation requirements and to get a head start on core college courses but dual credit hours earned by a student in high school can disqualify a student from being eligible for the tuition rebate. This bill:

Provides that course credit, other than course credit earned exclusively by examination, that is earned before graduating from high school is excluded from the calculation of semester credit hours relating to determining whether a qualified student is eligible for a rebate of a portion of the student's undergraduate tuition.

Expansion of the North Central Texas College District Service Area—S.B. 179

by Senator Estes—House Sponsor: Representative Hardcastle

Past legislation opened the geographic boundaries of Graham Independent School District (ISD) for service from any community college. This bill:

Expands the service area of the North Central Texas College District to include territory within the part of Graham ISD that is located in Young County.

Downward Expansion of University of Houston–Clear Lake—S.B. 324

by Senator Jackson—House Sponsor: Representative John Davis

The University of Houston–Clear Lake (UH–Clear Lake) currently offers only junior and senior programs, as well as graduate level programs. This bill:

Requires UH–Clear Lake to offer all levels of undergraduate programs and graduate programs, and deletes text authorizing the university to enroll a student who has successfully completed at least 30 semester credit hours of course work at a public or private institution of higher education and who is concurrently enrolled in another public or private institution of higher education.

Provides that the change in law made by this Act applies beginning with course levels that may be offered by UH–Clear Lake for the 2012-2013 academic year.

Renaming the North Harris Montgomery Community College District—S.B. 386

by Senator Williams—House Sponsor: Representative Harless

In 2008, it was determined that the name of the North Harris Montgomery Community College District was no longer appropriate since the community college had added parts of San Jacinto County, Walker County, and Liberty County to its service area. Since state law requires the name of a community college to have some local geographic or historic relevance, the name Lone Star College System District was selected because Montgomery County has been designated by the Texas Legislature as the birth place of the Lone Star Flag. This bill:

Renames in statute the North Harris Montgomery Community College District as the Lone Star College System District.

Funding for Physical Education Courses Offered for Dual Credit—S.B. 419

by Senator West—House Sponsor: Representative Diane Patrick

High school students are currently allowed to take a wide range of academic and non-academic college courses for dual credit. According to interested parties, in a recent fiscal year, nearly 2,000 Texas high school students received both high school and college credit for certain physical education courses. Physical education courses are not included as part of the required core curriculum for colleges outlined by THECB rules, so not every public junior college requires completion of such a course to earn an associate degree. This bill:

Amends the Education Code to exclude from the contact hours used to determine a public junior college's proportionate share of the state money appropriated and distributed to public junior colleges the contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit for which the student may receive credit toward the physical education curriculum requirement.

Provides that this Act applies beginning with funding for the 2011 fall semester.

Texas State Technical College System West Texas Campus—S.B. 489

by Senator Fraser et al.—House Sponsor: Representative Susan King

The Texas State Technical College System (TSTC) consists of several campuses across the state that provide courses in the area of technical-vocational higher education. Current statutes relating to TSTC need to be clarified.

Redefining the TSTC West Texas campus to include the extension centers at Abilene, Brownwood, and Breckenridge amends current law to reflect existing operations. The four locations operate as one unit, all four locations are permanent sites owned by TSTC, and the redefinition allows funds allocated from the Higher Education Assistance Fund to be used at the Abilene, Brownwood, and Breckenridge locations. This bill:

Redefines "campus" as a unit, rather than a residential unit, of the Texas State Technical College System that grants associate degrees and certificates.

Provides that one campus of the Texas State Technical College System is composed of a campus serving West Texas that operates as a collective unit of strategically positioned permanent locations in the city of Sweetwater in Nolan County, the city of Abilene in Taylor County, the city of Brownwood in Brown County, and the city of Breckenridge in Stephens County.

Acquisition of Land and Facilities by the Texas State Technical College System—S.B. 514

by Senator Birdwell et al.—House Sponsor: Representative Charles Anderson et al.

Section 135.02, Education Code, contains two Subsections (c). The first Subsection (c) allows the board of regents of the Texas State Technical College system to accept or acquire by purchase land and facilities in certain counties, subject to the approval of the governor. The second Subsection (c) allows acquisition or purchase of land and/or facilities in any county in which a campus or extension center of the Texas State Technical College System is located under certain conditions without the governor's approval. Acquisitions and purchases do not require approval from the governor's office elsewhere within the Education Code. This bill:

Repeals Section 135.02(c) (relating to accepting and acquiring by purchase land and facilities in certain counties, subject to the approval of the governor), Education Code, as amended by Chapter 268 (S.B. 1357), Acts of the 72nd Legislature, Regular Session, 1991.

University of Houston System Board of Regents Meetings—S.B. 528

by Senator Huffman—House Sponsor: Representative Coleman

The Texas Education Code currently requires the board of regents of the University of Houston System to hold regular annual meetings during the month of April, and the board is one of only two boards in the state that is required to hold its regular meetings during a specific month. This bill:

Requires the board of regents to hold regular meetings for the transaction of business pertaining to the affairs of the university system; authorizes the board, by rule, to establish a procedure for calling a special meeting of the board at other times; and removes language requiring the board to annually meet during the month of April.

Educational Scope of Texas A&M University—Corpus Christi—S.B. 633

by Senator Hinojosa—House Sponsor: Representative Hunter

Past legislation removed language in the Education Code that referred to Texas A&M University—Corpus Christi as an "upper-level institution," but one reference in Section 87.401 (Establishment; Scope), Education Code, was missed. Removing that reference will eliminating any discrepancy about the classification of the university in the Education Code. This bill:

Amends Section 87.401 (Establishment; Scope), Education Code, to refer to Texas A&M University–Corpus Christi as a general academic teaching institution, rather than a coeducational educational institution, and to replace language referencing the university as an "upper-level institution" with language referencing the university by name.

Scholarship Trust Fund for Fifth-Year Accounting Students—S.B. 777

by Senator Williams—House Sponsor: Representative Otto

Certified public accountants (CPAs) pay \$10 annually as part of their annual CPA license fee, which provides the funding for college and university scholarships awarded to fifth-year accounting students to take the CPA examination. The 81st Legislature passed H.B. 2440, which transferred the administration of these funds from THECB to the Texas State Board of Public Accountancy (TSBPA) and transferred the accumulated funds and future collected funds from a designated general fund to a trust fund outside the treasury to be used by TSBPA solely for the purpose of funding these scholarships. The funds consolidation bill of the 81st Legislature reversed the transfer of the funds; therefore, they remain in the designated general fund. To ensure that the scholarship funds will be available to students for the next biennium, the fund transfer from the designated general fund to the trust fund needs to be reauthorized. This bill:

Reenacts Section 901.155(b), Occupations Code, as amended by Chapter 119 (H.B. 2440), Acts of the 81st Legislature, Regular Session, 2009, relating to how the scholarship trust fund for fifth-year accounting students that is held by the Texas State Board of Public Accountancy (TSBPA) outside the state treasury may be used.

Recreates the scholarship trust fund for five-year accounting students as a trust fund held outside the state treasury by TSBPA, and rededicates the revenue dedicated to the trust fund as provided by Chapter 119 (H.B. 2440), Acts of the 81st Legislature, Regular Session, 2009, for the purposes specified by Subchapter N (Scholarships for Fifth-Year Accounting Students), Chapter 901 (Accountants), Occupations Code.

Rededication of Funds for Nursing Education—S.B. 794

by Senators Nelson and West—House Sponsors: Representatives Margo and Susan King

The current dedication of funds from the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs to nursing education expires on August 31, 2011. This bill:

Requires that grants awarded by THECB under Section 63.202(c) (relating to the awarding of grants from the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs), Education Code, be awarded to certain programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master's or doctoral degree for the program, for the state fiscal biennium ending on August 31, 2013, rather than ending on August 31, 2009, and the fiscal biennium ending on August 31, 2015, rather than ending on August 31, 2011.

Uniform Priority Deadline for Student Financial Assistance—S.B. 851

by Senator Zaffirini—House Sponsor: Representative Branch

Currently, there is no law regarding a statewide financial aid deadline. Some institutions have their deadlines set in March, others in May, and others in June, which creates confusion when students have to meet different deadlines when applying to different institutions. This bill:

Requires THECB by rule to provide for a uniform priority application deadline for applications for financial assistance for an academic year.

Prohibits the priority deadline to serve as a determination of eligibility for state financial assistance, but requires that eligible applicants who apply on or before the deadline be given priority consideration for available state financial assistance before other applicants.

Requires THECB to consult with financial aid personnel at institutions of higher education regarding adopting rules providing for the required priority deadline.

Provides that the priority deadline only applies to general academic teaching institutions.

Provides that the changes in law by this Act applies beginning with student financial assistance awarded for the 2013-2014 academic year.

Rate and Damage Schedules Governing Certain Easements—S.B. 873

by Senators Duncan and West—House Sponsor: Representative Hilderbran

Section 66.41 (Management of University Lands), Education Code, grants the board of regents of The University of Texas System (UT System) sole and exclusive management and control of the lands set aside or acquired by the Permanent University Fund. Section 66.46 (Easements on University Land), Education Code, gives the regents authority to grant easements or other interests in property for rights-of-way or access across land that belongs to the state but is dedicated to the support and maintenance of the UT System for certain utility transmission lines.

Recently, regents have increased utility line easement rates, resulting in several interested parties expressing concern that the rates are not "fair and reasonable." Currently, there are no avenues for easement holders to seek relief if they believe that the rates do not represent the fair market value of the interests being sought. This bill:

Requires the board of regents of the UT System to establish procedures by which a person seeking an easement or other interest under Section 66.46 may seek relief from a rate or damage schedule that the person believes does not represent the fair market value of the interest being sought.

Student and Exchange Visitor Information System Notification Requirements—S.B. 1009

by Senator Huffman—House Sponsor: Representative Sheffield

Federal law and regulations require institutions of higher education to report to the federal Student and Exchange Visitor Information System (SEVIS) a change in a student's personal information or academic status within 21 days. This bill:

Requires a public institution of higher education that is certified by the United States secretary of homeland security to enroll a foreign student admitted into the United States under a nonimmigrant F or M visa to promptly notify SEVIS or a successor program if a student enrolled under an F or M visa withdraws from the institution or withdraws from all courses in which the student is enrolled, or the institution dismisses a student enrolled under an F or M visa for nonattendance or takes any other official administrative action in regard to the student as a result of the student's nonattendance.

Dental School Feasibility Study—S.B. 1020

by Senator Rodriguez—House Sponsor: Representative Marquez

Recent reports indicate that there is an inadequate supply of dental health care professionals in southern and western parts of the state. This bill:

Requires THECB to conduct a study examining the need for and feasibility of establishing a dental school at the Texas Tech University Health Sciences Center at El Paso, and requires THECB to consult with the board of regents of the Texas Tech University System in conducting the study.

Requires THECB, not later than November 1, 2012, to report the results of the study to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education.

Bacterial Meningitis Vaccinations for Certain Students—S.B. 1107

by Senator Davis et al.—House Sponsor: Representative Charlie Howard

Current statute requires a first-time student or transfer student of an institution of higher education, including a private or independent institution, who resides in or has applied to live in on-campus housing to present a physician-signed certificate indicating that the student has been vaccinated against bacterial meningitis. Students residing in off-campus housing are not required to provide such certification. This bill:

Amends Section 51.9192 (Bacterial Meningitis Vaccination Required for Certain Students; Exemptions), Education Code, to require an entering student at an institution of higher education or private or independent institution of higher education to provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding a date established by THECB.

Defines "entering student," including providing that Section 51.9192 does not apply to a student of an institution who is enrolled only in an online or other distance education course or who is 30 years of age or older, and removes language that restricted the applicability of Section 51.9192 to a first-time student, including a transfer student, who resides in on-campus housing or has applied for and been approved to reside in on-campus housing at an institution.

Requires an institution of higher education or private or independent institution of higher education to include in the registration materials provided to a student a written notice of the right student or of a parent or guardian of the student to claim an exemption from the vaccination requirement and of the importance of consulting a physician about the need for immunization to prevent the disease.

Requires THECB to adopt rules establishing a date by which a student must have received the bacterial meningitis vaccination, which may not be later than the 10th day before the first day of the semester or other term in which the student initially enrolls unless the student is granted an extension, and requires the rules adopted by THECB to authorize an institution of higher education or private or independent institution of higher education to extend the compliance date for an individual student to a date that is not later than the 10th day after the first day of the semester or other term in which the student initially enrolls.

University Center Fee at Midwestern State University—S.B. 1121

by Senator Estes—House Sponsor: Representative Lyne

The purpose of the university center fee at Midwestern State University (MSU) is to operate, maintain, improve, equip, and finance the Clark Student Center and acquire or construct additions to the center. The board of regents of MSU and the MSU student body have voted in support of increasing the university center fee. This bill:

Authorizes the MSU board of regents to increase the amount of the university center fee for a semester or summer semester in excess of the applicable amount authorized in statute if the increase is approved by a majority of those

students participating in a general election called for that purpose, and prohibits the increased fee from being charged after the fifth academic year in which the increased amount was first charged unless certain criteria are met.

Tuition Rates for Nonresident Students at TAMU–Texarkana—S.B. 1272

by Senator Eltife—House Sponsor: Representative Lavender

Texas A&M University (TAMU)–Texarkana is the only general academic institution in the state of Texas located in a city that sits in two different states and many students who enroll at TAMU–Texarkana reside in Arkansas due to the unique bi-state environment. Previous legislation allowed residents of neighboring states who enrolled at TAMU–Texarkana to pay Texas in-state tuition, but that tuition waiver is no longer applicable because of certain changes at TAMU–Texarkana relating to the university's downward expansion to offer lower division courses.

At TAMU–Texarkana, there are also students who attend classes on campus during the day and also register for distance education classes; however, the university does not receive funding for the distance education hours taken by these students. This bill:

Provides that the nonresident tuition fee prescribed by Chapter 54 (Tuition and Fees), Education Code, does not apply to a nonresident student who is a resident of a neighboring state and who registers in TAMU–Texarkana, if the university is situated in a county immediately adjacent to the state in which the nonresident student resides.

Requires THECB to include in the formula funding for TAMU–Texarkana any semester credit hours taught through distance education to students enrolled at the university who reside in another state, and pay tuition at the rate charged to residents of this state and reside in a county in the other state that is contiguous to the county in which the university is located.

Sexual Abuse and Child Molestation Warning Signs Training—S.B. 1414

by Senator Duncan—House Sponsor: Representative Eiland

In response to a specific case of child molestation, the 79th Legislature enacted legislation requiring all volunteers and employees who work with children at Texas youth camps to complete a sexual abuse and child molestation awareness training course approved by the Department of State Health Services. The training is designed to be a deterrent to those who might harm youth and to equip volunteers and employees with valuable knowledge for detecting abuse and those who prey on children. However, children who attend youth camps operated on Texas college or university campuses are not protected because those institutions are exempt from the legislation. This bill:

Prohibits a program operator from employing an individual in a position involving contact with campers at a campus program for minors unless the individual submits to the program operator or the campus program for minors has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program on sexual abuse and child molestation; or the individual successfully completes the campus program for minors training and examination program on sexual abuse and child molestation during the individual's first five days of employment by the campus program for minors.

Provides an exemption from the training and examination program requirement for individuals who are students enrolled at the institution of higher education or private or independent institution of higher education who meet certain criteria.

Requires a program operator to submit to the Department of State Health Services (DSHS) verification that each employee of the campus program for minors has complied with these requirements and the fee assessed by the

DSHS; and requires the program operator to retain a copy of the documentation for each employee for a specified time period.

Requires a person applying for or holding an employee position involving contact with campers at a campus program for minors to successfully complete the training and examination program on sexual abuse and child molestation.

Requires the executive commissioner of the Health and Human Services Commission by rule to establish criteria and guidelines for the training and examination program on sexual abuse and child molestation and requires certain topics be included in the program and requires the executive commissioner, not later than December 1, 2011, by rule to establish criteria and guidelines for the training and examination program on sexual abuse and child molestation.

Requires DSHS at least every five years to review each training and examination program on sexual abuse and child molestation to ensure the program continues to meet the established criteria and guidelines.

Authorizes DSHS to assess a fee in the amount necessary to cover costs to each person that applies for DSHS's approval of a training and examination program on sexual abuse and child molestation and to each program operator who files the verification form with DSHS.

Using Appropriated Funds for Certain Educational Programs—S.B. 1662

by Senator West et al.—House Sponsor: Representative Turner

In the mid-1990s and again in 2000, the comptroller of public accounts (comptroller) allowed state funds to be used for room and board, student travel, and student stipends relating to certain Prairie View A&M University programs through an authorization letter.

In a letter dated October 9, 2009, the comptroller acknowledged that Prairie View A&M University had used previous correspondence from the comptroller as authority to expend state funds on those items, but that new letter also stated that the comptroller believed that the university did not have statutory authority to make travel-related payments for non-employees and students using state-appropriated funds because Chapter 660 (Travel Expenses), Government Code, and the General Appropriations Act refer to state employees and state business as limitations on the use of state appropriations for travel expenses. The letter stated that the institution can use institutional funds for such purposes, but not state-appropriated funds and that "if the university would like to pay the travel expenses for students and other non-state employees from appropriated funds, we recommend it seek specific authority from the legislature." This bill:

Authorizes funds appropriated to Prairie View A&M University to be used to pay for costs associated with the university's Academy for Collegiate Excellence and Student Success program, the Research Apprentice Program, and the Prairie View A&M Undergraduate Medical Academy, including participant and employee travel expenses and related expenses.

Measurable Learning Outcomes for Certain Undergraduate Courses—S.B. 1726

by Senator Zaffirini—House Sponsor: Representative Branch

College and university course offerings vary greatly in terms of content, quality, and effectiveness. Identifying and adopting learning outcomes are topics increasingly important in higher education, and many accrediting agencies require that learning outcomes be identified and adopted. This bill:

Amends Subchapter Z (Miscellaneous Provisions), Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, by adding Section 51.96851 (Learning Outcomes for Undergraduate Courses), to

require each institution of higher education to identify, adopt, and make available for public inspection measurable learning outcomes for each undergraduate course offered by the institution other than: a course with a highly variable subject content that is tailored specifically to an individual student, such as an independent study or directed reading course; or a laboratory, practicum, or discussion section that is an intrinsic and required component of a lecture course.

Authorizes an institution of higher education to adopt learning outcomes for a course that are the same as or based on those identified for that course by the institution's recognized accrediting agency.

Requires THECB, in consultation with institutions of higher education, to adopt any rules THECB considers appropriate for the administration of Section 51.96851.

Certain Changes to the Student Loan Program—S.B. 1799

by Senator West—House Sponsors: Representatives Branch and Alonzo

Access to low-interest student loans is critical for students attending universities and colleges in Texas. THECB administers a loan program, which was adopted in 1965 and uses general obligation bonds to finance low-interest loans to eligible students seeking an undergraduate, graduate, or professional education at public and private institutions of higher education in Texas. The loan program is intended for students with insufficient resources to finance a college education.

Currently, the Texas Constitution caps (in aggregate) the amount of general obligation bond authority available to THECB for the loan program. Every four to six years, THECB must seek a constitutional amendment to effectively reset the available bonding capacity to meet ongoing student loan demand. Additionally, current statute limits THECB's ability to issue authorized general obligation bonding to \$125 million each fiscal year. This bill:

Adds Section 50b-7, Article III (Legislative Department), Texas Constitution, to other sections pursuant to which THECB shall administer the student loan program authorized by Chapter 52 (Student Loan Program).

Redefines "bond" in Section 52.501 (Definitions), Education Code, and Section 52.81 (Definitions), Education Code, to include a general obligation bond issued by THECB under Section 50b-7, Article III, Texas Constitution.

Requires that the principal amount of outstanding bonds issued under Section 52.82 (Issuance; Sale), Education Code, at all times be equal to or less than the amount provided by Section 50b-7, Article III, Texas Constitution, and prohibits the total amount of bonds issued by THECB in a state fiscal year from exceeding \$350 million, rather than \$125 million.

Authorizes the performance of official duties prescribed by Section 50b-7, Article III, Texas Constitution, in reference to the payment of the bonds, to be enforced in a court of competent jurisdiction by mandamus or other appropriate proceedings.

Provides that this Act has no effect if the constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students (S.J.R. 50) is not approved by the voters.

Partnership Agreement Between UT–Brownsville and Texas Southmost College District—S.B. 1909

by Senator Lucio—House Sponsor: Representative Oliveira

In 1991, the 72nd Legislature authorized the creation of The University of Texas at Brownsville (UT–Brownsville) to offer upper-level courses for the expansion of higher education opportunities in South Texas. Additionally, The

University of Texas System was authorized to enter into agreements with the Texas Southmost College District to offer lower-division, occupational, and technical courses. The partnership model developed by both entities created UT–Brownsville /Texas Southmost College under a shared governance model.

In November 2010, The University of Texas System board of regents terminated the current partnership with Texas Southmost College District in favor of separate governance. This bill:

Authorizes UT–Brownsville to enter into any agreement with the Texas Southmost College District to facilitate higher education advancement and opportunity in the district's service area and the transition of students from Texas Southmost College to UT–Brownsville; and authorizes the agreement to cover any matter relating to those purposes.

Authorizes the board of regents of the UT System to prescribe courses leading to customary degrees offered at leading American universities; authorizes the board to award those degrees, including bachelor's, master's, doctoral degrees, and their equivalents; and prohibits a department, school, or degree program from being instituted without the prior approval of THECB.

Authorizes the board of regents of the UT System and the board of trustees of the Texas Southmost College District to contract with each other for the use of facilities, and requires that the terms of the contract be negotiated between the parties and provide for reasonable compensation for the use of facilities.

Repeals Section 78.02(b) (relating to requiring UT-Brownsville to teach only junior, senior, and graduate-level courses), Education Code; Section 78.02(d) (relating to requiring UT-Brownsville to offer lower-division courses), Education Code; Section 78.07 (Lower-Division Admissions), Education Code; and Section 78.08 (Formula Funding), Education Code.

Provides that UT–Brownsville and the Texas Southmost College District are free-standing, independent institutions; requires those institutions to cooperate to ensure that each institution achieves separate accreditation; and requires UT–Brownsville and the Texas Southmost College District to submit to the legislature a semiannual report on the status of the partnership until each institution achieves separate accreditation and the existing partnership agreement is terminated.

Constitutional Amendment Regarding Financing Educational Loans to Students—S.J.R. 50

by Senator West—House Sponsors: Representatives Branch and Alonzo

THECB administers the Hinson-Hazelwood College Student Loan Program (loan program), which was adopted in 1965 and uses general obligation bonds to finance low-interest loans to eligible students seeking an undergraduate, graduate, or professional education at public and private institutions of higher education in Texas. The loan program is intended for students with insufficient resources to finance a college education.

Currently, the Texas Constitution caps (in aggregate) the amount of general obligation bond authority available to THECB for the loan program. Every four to six years, THECB must seek a constitutional amendment to effectively reset the available bonding capacity to meet ongoing student loan demand. Additionally, current statute limits THECB's ability to issue authorized general obligation bonding of more than \$125 million each fiscal year. This resolution proposes a constitutional amendment:

Authorizing the legislature by general law to authorize THECB to issue and sell general obligation bonds for the purpose of financing educational loans to students in the manner provided by law and requires the principal amount of outstanding bonds issued must at all times be equal to or less than the aggregate principal amount of state general obligation bonds previously authorized for that purpose.

Requiring that certain characteristics of the bonds be executed as prescribed by THECB and prohibits the maximum net effective interest rate to be borne by issued bonds from exceeding the maximum rate provided by law.

Authorizing the legislature to provide for the investment of bond proceeds and to establish and provide for the investment of an interest and sinking fund to pay the bonds; and requires that income from the investment be used for the purposes prescribed by the legislature.

Providing certain appropriation requirements regarding issued bonds or interest on the bonds while any of those bonds are outstanding and unpaid, and provides that such issued bonds are incontestable after certain steps have been taken.

Postsecondary Education and Training in the Public High School Curriculum—H.B. 34

by Representative Branch et al.—Senate Sponsors: Senators Shapiro and West

Current law requires a public high school student to earn credit in economics before graduating and requires instruction in personal financial literacy to be incorporated into the economics curriculum. Personal financial literacy curriculum may include instruction in understanding interest, avoiding or eliminating credit card debt, starting a small business, beginning a savings program, and planning for retirement. The cost of higher education continues to increase, and high school curricula should include instruction about paying for higher education. This bill:

Requires the Texas Essential Knowledge and Skills and Section 28.025 (High School Diploma and Certificate; Academic Achievement Record), Education Code, to include instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, in one or more courses required for high school graduation.

Requires each school district and each open-enrollment charter school that offers a high school program to provide instruction in personal financial literacy in any course meeting the requirements for an economics credit under Section 28.025 using materials approved by the State Board of Education (SBOE), and requires the instruction in personal financial literacy to include instruction on completing the application for federal student aid provided by the United States Department of Education.

Authorizes a school district or open-enrollment charter school to use an existing state, federal, private, or nonprofit program that provides students without charge the financial literacy instruction, and requires the school district or open-enrollment charter school to ensure that a student enrolled at an institution of higher education in a dual credit economics course for credit receives the personal financial literacy instruction.

Requires SBOE, not later than January 31, 2012, to identify the Essential Knowledge and Skills of personal financial literacy instruction to include instruction in methods of paying for college and other postsecondary education and training, and requires SBOE, not later than August 31, 2012, to approve materials that provide for such instruction.

Requires each school district and open-enrollment charter school that offers a high school program, beginning with the 2013-2014 school year, to include the instruction in methods of paying for college and other postsecondary education and training in the instruction in personal financial literacy, to use materials approved for that purpose, and to ensure that a student enrolled at an institution of higher education in a dual credit course for an economics credit is provided that instruction.

Disciplinary Methods in Public Schools—H.B. 359

by Representative Allen et al.—Senate Sponsor: Senator Lucio

Currently, provisions for discipline and law and order relating to alternative settings for behavior management in the public school system leave the manner in which corporal punishment is used to the discretion of the school district. In some districts, parents are not provided the opportunity to disallow the use of corporal punishment as a means of discipline for their children, meaning the parents' only option for prevention is to remove an affected student from a school that administers corporal punishment without parental consent. This bill:

Authorizes an educator to use corporal punishment to discipline a student if the board of trustees of the independent school district adopts a policy under which corporal punishment is permitted as a method of student discipline, unless the student's parent or legal guardian has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

Requires the student's parent or legal guardian to provide such a written, signed statement each school year to the board of trustees of the school district, and authorizes the student's parent or legal guardian to revoke such a statement at any time during the school year by submitting a written, signed revocation.

Provides that Section 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), Education Code, and any rules or procedures adopted under that section apply to a peace officer only if the peace officer is employed or commissioned by a school district, or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency.

Defines "law enforcement duties," requires a school district to report electronically to TEA information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity, and requires such a report to be consistent with the requirements adopted for reporting the use of restraints involving students with disabilities.

Provides that there is an exception to the application of Section 37.124(a) (relating to a person committing an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities), Education Code, and to the application of Section 37.126(a)(1) (relating to a person committing an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children in certain situations, including to or from school on a vehicle owned or operated by a county or independent school district), Education Code, if at the time the person engaged in such prohibited conduct the person was a student in the sixth grade or a lower grade level.

Provides that certain subsections of Section 42.01 (Disorderly Conduct), Penal Code, do not apply to a person who at the time the person engaged in the prohibited conduct was a student in the sixth grade or a lower level and the prohibited conduct occurred at a public school campus during regular school hours.

Eligibility of Employees Convicted of Certain Offenses to Provide Contract Services—H.B. 398

by Representative Jim Jackson—Senate Sponsor: Senator Hegar

Previous legislation required background checks for teachers, administrators, and other individuals employed by school districts. One unintended consequence of that legislation was that subcontractors were not required to check the background of their own employees, but general contractors were responsible for checking the background of both their own employees and the various subcontractors' employees, which created practical problems and legal problems. Subsequent legislation attempted to correct that problem, but due to a drafting error that legislation did not reference the correct section of the Education Code. This legislation corrects that drafting error. This bill:

Prohibits a contracting or subcontracting entity to permit certain employees to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Section 22.085(a) (relating to employees and applicants convicted of certain offenses), Education Code, rather than obtaining a certification as an educator under Section 21.060 (Eligibility of Persons Convicted of Certain Offenses), Education Code.

Provides that the changes made by this Act apply to the provision of services at a public school by an employee of a contracting or subcontracting entity without regard to whether the contract or subcontract under which the person is employed was entered into before, on, or after the effective date of this Act.

Football Helmet Safety Requirements—H.B. 675

by Representatives Lucio III and White—Senate Sponsor: Senator Lucio

Over the last few years significant awareness has been raised on the issue of sports-related head injuries. While much attention has been placed on the diagnosis and prevention of sports-related head injuries through medical analysis, proper protective equipment is a necessity to aid in prevention. Football helmets are the first line of defense in preventing head injuries among Texas high school athletes but currently the University Interscholastic League (UIL) does not have any rules regarding the age of a helmet or how often it must be reconditioned. This bill:

Prohibits a school district's football program from using a football helmet that is 16 years old or older.

Requires a school district to ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

Requires a school district to maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football program and the dates on which each helmet is reconditioned.

Authorizes UIL to adopt rules necessary to implement these requirements, provided that the rules must be approved by the commissioner of education in accordance with Section 33.083(b) (relating to UIL being a part of The University of Texas at Austin and being required to submit its rules and procedures for approval or disapproval), Education Code.

Provides that this Act applies beginning with the 2012-2013 school year.

High School Graduation Requirements for Certain Students—H.B. 692

by Representative Farias—Senate Sponsor: Senator Van de Putte

Currently, SBOE does not have the ability to exempt a student from the statutorily required physical education credit for graduation. A well-planned, sequential program of physical education contributes significantly to the learning experience of all students, particularly students with disabilities. However, certain students with extreme disabilities have conditions which preclude them from active participation in general physical education. This bill:

Requires SBOE to allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in certain other subjects for the physical education credit required under the curriculum requirements for the minimum, recommended, and advanced high school programs.

Prohibits such a substituted credit from also being used by the student to satisfy a graduation requirement other than completion of the physical education credit, and requires that rules adopted by SBOE must provide that the determination regarding a student's ability to participate in physical activity will be made by certain entities.

Disclosure of Student Food Allergy at Time of Enrollment—H.B. 742

by Representative Hunter—Senate Sponsor: Senator Hinojosa

Approximately 185,000 children in Texas have food allergies. While some food allergies are not life threatening, they may require immediate medical attention. Schools rely on their districts to promote policies on how to deal with severe food allergies, but sometimes teachers, school nurses, aides, and substitute teachers are unaware of children in their school who have potentially deadly food allergies. This bill:

Defines "severe food allergy."

Requires a school district, on enrollment of a child in a public school, to request that a parent or legal guardian disclose whether a child has a food allergy or a severe food allergy that, in the judgment of the parent or legal guardian, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety, and specify the food to which the child is allergic and the nature of the allergic reaction.

Requires a school district to maintain the confidentiality of a child's food allergy or severe food allergy, and authorizes the district to disclose the information to certain appropriate school personnel only to the extent consistent with district policy under Section 38.009 (Access to Medical Records), Education Code, and permissible under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

Requires that information regarding a child's food allergy be retained in the child's student records but prohibits that information from being placed in the health record maintained for the child by the school district, except in certain situations.

Requires that documentation be placed in the health record maintained for the child by the school district if the school receives documentation of a food allergy from a physician, and authorizes a registered nurse to enter appropriate notes, including a notation that the child's student records indicate that a parent has notified the school district of the child's possible food allergy, about a child's possible food allergy in the health record maintained for the child by the school district.

Provides that the Act applies beginning with the 2011-2012 school year.

Enrollment or Transfer of a Student in the Conservatorship of the State—H.B. 826

by Representative Farias—Senate Sponsor: Senator Zaffirini

When a child is placed in the conservatorship of the state, the child may be displaced from his or her school, depending on the location of available foster care. This change can have a detrimental effect on the child's development, particularly given the circumstances that lead to state conservatorship. Currently, there is no designated employee in a school district who monitors the transfer or enrollment of such children within public schools. This bill:

Requires each school district to appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the district who is in the conservatorship of the state.

Requires each school district to appoint that liaison officer not later than December 1, 2011.

Membership on the Advisory Committee for Special Education Services—H.B. 861

by Representative Diane Patrick—Senate Sponsor: Senator Davis

The continuing advisory committee for special education services (continuing advisory committee), as appointed by the governor, does not currently have a director of special education programs on the committee. A special education program director would contribute to the continuing advisory committee the perspective and knowledge of a professional who is familiar with statewide and local programs. This bill:

Requires that at least one member appointed to the continuing advisory committee be a director of special education programs for a school district or for a shared services arrangement of multiple school districts as provided by Section 29.007 (Shared Services Arrangements), Education Code.

Requires the governor to appoint such a person as a member to the continuing advisory committee not later than February 1, 2013.

Expulsion or Placement in a Disciplinary Alternative Education Program—H.B. 968

by Representative Strama—Senate Sponsor: Senator Watson

Chapter 37 (Discipline; Law and Order), Education Code, governs discipline in public schools and provides guidelines on discretionary and mandatory removals and expulsions for students who administrators believe have committed certain offenses. This bill:

Adds the felony offense of aggravated robbery under Section 29.03 (Aggravated Robbery), Penal Code, as a reason that in certain situations a student shall be removed from class and placed in a disciplinary alternative education program (DAEP) based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity, and as a reason that in certain situations the board of trustees of a school district or the board's designee, after an opportunity for a hearing, may expel a student and elect to place the student in an alternative setting.

Defines "serious misbehavior," and authorizes a student to be expelled if the student, while placed in a DAEP, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions.

Requires each school district in a county with a population greater than 125,000 and the county juvenile board to annually enter into a joint memorandum of understanding that, amongst other things, establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior.

Students Receiving Special Education Services Reporting Requirement—H.B. 1130

by Representative Huberty—Senate Sponsor: Senator Seliger

Past legislation created a state requirement for the compilation of a list of school districts that exceed the statewide average ratio of students with disabilities who are placed in more restrictive environments to those placed in less restrictive environments by 25 percent for two successive years. When the Individuals with Disabilities Education Act was reauthorized by the United States Congress, it required state agencies to adopt measures to gather and report certain information regarding educational placement of students with disabilities. Data regarding student placement, with specific emphasis on placement in the least restrictive environment, is now part of the ongoing collection and reporting system used by the state, and TEA is required to report this information to the United States Department of Education, which creates redundant reporting requirements of similar information. This bill:

Repeals Section 42.151(j) (requiring TEA, each year, to make and disseminate to each school district a list of those districts that maintain for two successive years a ratio of full-time equivalent students placed in partially or totally self-contained classrooms to the number of full-time equivalent students placed in resource room or mainstream instructional arrangements that is 25 percent higher than the statewide average ratio), Education Code.

Expulsion for Certain Criminal Acts Involving a Computer—H.B. 1224

by Representative Reynolds—Senate Sponsor: Senator Huffman

Currently, school districts are not able to expel students who engage in misconduct involving school-owned computers, computer networks, and computer systems. School districts may only discipline this type of conduct through the removal of the student to a DAEP even though this is a serious violation of district security. This bill:

Authorizes a student to be expelled if the student engages in conduct that contains elements of the offense of breach computer security under Section 33.02 (Breach of Computer Security), Penal Code, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district, and the

student knowingly alters, damages, or deletes school district property or information or knowingly commits a breach of any other computer, computer network, or computer system.

Consolidation of School District Employment of Certain Security Personnel—H.B. 1254

by Representatives Pickett and Margo—Senate Sponsor: Senator Rodriguez

There are several school districts in El Paso County and each has its own peace officers or security personnel. This bill:

Requires, not later than January 1, 2012, school districts in a county with a population of 800,000 or more that is located adjacent to an international border to meet and discuss countywide consolidation of school district employment of peace officers and security personnel; and to collect and review information related to the employment of peace officers and security personnel by each district and discuss the feasibility and advisability of consolidation of that employment.

Requires the school districts, not later than May 1, 2012, to provide a joint report to the commissioner of education and sets forth the content of the report.

Provides that the relevant section expires September 1, 2012.

University Interscholastic League Fiscal Impact Statements—H.B. 1286

by Representative Donna Howard et al.—Senate Sponsor: Senator Davis

The UIL provides educational extracurricular academic, athletic, and music contests to Texas students enrolled in public or charter schools. The terms of participation that govern all UIL contests are set forth in UIL's *Constitution and Contest Rules*. Changes and additions to the rules are voted on by the UIL legislative council and the commissioner of education must also approve the rule before an approved rule change can take effect. Currently, there is no requirement that UIL provide a fiscal analysis of the impact on school districts of proposed rule changes. This bill:

Prohibits the UIL legislative council from taking final action on a new or amended rule that would result in additional costs for a member school unless a fiscal impact statement regarding the rule has been completed, and provides what is considered final action by the legislative council.

Requires the fiscal impact statement include a projection of the costs to member schools of complying with the rule during the five-year period following the effective date of the rule and an explanation of the methodology used to analyze the fiscal impact of the rule and determine those cost projections.

Requires a copy of the fiscal impact statement, if a statement is prepared for a rule, be attached to the rule when it is submitted for approval to certain parties.

Grace Period for the Expiration of an Educator's Certification—H.B. 1334

by Representative Allen—Senate Sponsor: Senator Davis

Current law provides for the termination of an educator's probationary, continuing, or term contract if the teacher does not hold a certificate or permit, but current law does not take into consideration potential processing delays at the State Board for Educator Certification (SBECE). This bill:

Provides that an educator's certificate or permit is not considered to have expired if the employee has completed the requirements for renewal of the certificate or permit; the employee submitted the request for renewal prior to the expiration date; and the date of the certificate or permit would have expired is before the date the SBEC takes action to approve the renewal of the certificate or permit.

Statewide Plan for Delivery of Services to Students With Disabilities—H.B. 1335

by Representatives Allen and Reynolds—Senate Sponsor: Senator Van de Putte

Currently, federal law requires a student with disabilities to be educated in the least restrictive environment appropriate for the student, which includes a regular classroom under the guidance of the regular classroom teacher. Section 89.1075 (General Program Requirements and Local District Procedures), Title 19, Texas Administrative Code, requires each school district to implement procedures to ensure that each teacher involved in a student's instruction has the opportunity to provide input and request assistance regarding the implementation of the student's individualized education program (IEP). This bill:

Requires TEA to develop and implement a statewide plan for the delivery of services to children with disabilities with programmatic content that includes procedures designed to perform certain actions, including to ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting to request a review of the student's IEP; that provides for a timely district response to the teacher's request; and that provides for notification to the student's parent or legal guardian of that response.

Mental Health Intervention and Suicide Prevention Programs—H.B. 1386

by Representative Coleman et al.—Senate Sponsor: Senator Ellis

Suicide is a leading cause of death in adolescents and pressures to succeed academically and socially maybe magnified when youth are subjected to harassment, discrimination, intimidation, and violence based on perceived or actual individual characteristics, behavior, or beliefs. Such victimization can lead to depression and anxiety as well as low self-esteem. Tragic consequences, including suicide, can occur when mental health issues are left unaddressed. Establishing policies designed to help recognize the signs of emotional trauma and suicidal behavior, taking steps to mitigate that trauma, and providing mental health services can help prevent suicide. This bill:

Requires the Department of State Health Services (DSHS), in coordination with TEA, to provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting; requires DSHS and TEA to make certain considerations in developing the list of programs; and authorizes each school district to select from the list a program or programs appropriate for implementation in the district.

Requires those programs on the list to include components that provide for training for certain school district staff, as well as law enforcement officers and social workers who regularly interact with students, to recognize students at risk of committing suicide; to recognize students displaying early warning signs and a possible need for early mental health intervention; and to intervene effectively with students by providing notice and referral to a parent or guardian so appropriate action may be taken by a parent or guardian.

Authorizes the board of trustees of each school district to adopt a policy concerning early mental health intervention and suicide prevention that includes certain information, and requires the policy to prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health intervention or suicide prevention.

Requires DSHS, not later than January 1, 2013, to submit a report to the legislature relating to the development of the list of programs and the implementation in school districts of selected programs by school districts that choose to implement programs.

Requires the district improvement plan to include provisions for strategies for improvement of student performance that include methods for addressing the needs of students for special programs, including such suicide prevention programs.

Prohibits a person from being employed by a school district as a marriage and family therapist unless the person is licensed by the state agency that licenses that profession, and exempts a person employed by the district to perform marriage and family therapy from being required to hold such a license to perform marriage and family therapy with that district as long as that person was employed by the same district before September 1, 2011.

Open-Enrollment Charter Schools Participation in State Travel Service Contracts—H.B. 1550

by Representative Aycock—Senate Sponsor: Senator Seliger

Currently, only certain entities outside of state agencies and public universities are eligible to participate in the Texas Facilities Commission's (TFC's) contract for travel services, which provides preferable rates on airlines, hotels, and rental cars that are secured by the volume purchasing power of the state, its universities, and the eligible entities. This bill:

Authorizes an officer or employee of an open-enrollment charter school who is engaged in official business to participate in TFC's contract for travel services and authorizes TFC to charge a participating open-enrollment charter school a fee not to exceed the costs incurred by TFC in providing those services.

First Day of Instruction in Certain School Districts—H.B. 1555

by Representatives Thompson and Miles—Senate Sponsor: Senator Ellis

A large Texas school district recently launched an initiative to improve student academic achievement in certain school district schools. One of the initiative's points of emphasis is increased instructional time, added at the beginning of the school year, to provide students additional time to prepare for statewide standardized tests in the spring. However, given the current prohibition on school districts from starting student instruction earlier than the fourth Monday in August, legislative action is required to allow a district to extend the school year. This bill:

Prohibits a school district from beginning instruction for students for a school year before the fourth Monday of August except in certain situations.

Authorizes a school district to begin instruction for students for a school year before the fourth Monday of August if the district operates a year round system under Section 25.084 (Year-Round System), Education Code.

Authorizes a school district to begin instruction for students for a school year on or after the first Monday in August at a campus or at no more than 20 percent of the campuses in the district if the district has a student enrollment of 190,000 or more; the district at the beginning of the school year provides days of instruction in addition to the minimum number of days of instruction required by statute at those campuses at the beginning of the school year that are financed with local funds; the campus or each of the campuses are undergoing comprehensive reform; and a majority of the students at the campus or at each of the campuses are educationally disadvantaged.

Educator Misconduct and Certain Employment Sanctions—H.B. 1610

by Representatives Larry Gonzales and Madden—Senate Sponsor: Senator Patrick

Currently, educators who are convicted of certain felonies, including felonies involving a minor, may have their teaching certificate revoked following a lengthy and costly hearing procedure. Texas statute requires that an educator be removed from campus or administrative office upon notice of the conviction, but it does not require that the individual's employment be terminated immediately. As a result, many school districts place these individuals on paid administrative leave when scheduled for termination rather than go through a costly administrative hearing process. This bill:

Requires a superintendent or director of a school district to complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in certain misconduct, despite the educator's resignation from district employment before completion of the investigation.

Requires a school district or open-enrollment charter school that receives notice of the revocation of an educator's certificate based on a conviction of certain offenses to, amongst other things, suspend the person without pay; provide the person with written notice that the person's contract is void; and terminate the employment of the person, if the person is employed under a probationary, continuing, or term contract under Chapter 21 (Educators), Education Code.

Authorizes a school district or open-enrollment charter school, if the district or school becomes aware that a person employed by the district or school under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense and the person is not subject to the previous provision, to suspend the person without pay, provide the person with written notice that the person's contract is void, and terminate the employment of the person as soon as practicable.

Provides that such actions taken by a school district or open-enrollment charter school are not subject to appeal under Chapter 21, and that the notice and hearing requirements of Chapter 21 do not apply to such action.

Provides that an employee of a public or private primary or secondary school commits an offense if the employee holds a certificate or permit or is a person who is required to be licensed by a state agency, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows has certain characteristics, or engages in conduct described by Section 33.021 (Library Standards), Education Code, with such a person regardless of the age of that person.

Provides that it is an affirmative defense to prosecution if the actor was a spouse of the enrolled person at the time of the offense; or the actor was no more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

Charitable Contributions by School District Employees—H.B. 1682

by Representatives Weber and Lozano—Senate Sponsor: Senator Jackson

Some public school employees have raised concerns that their supervisors direct them to make charitable contributions and in some school districts, teachers and other school employees are required to attend meetings at which charitable contributions are solicited. This bill:

Prohibits a school district board of trustees or a school district employee from directly or indirectly requiring or coercing any school district employee to make a contribution to a charitable organization or a fundraiser, or to attend a meeting called for the purpose of soliciting charitable contributions, and prohibits a school district board of trustees

or a school district employee from directly or indirectly requiring or coercing any school district employee to refrain from those specified activities.

Bullying in Public Schools—H.B. 1942

by Representative Diane Patrick et al.—Senate Sponsor: Senator Van de Putte et al.

According to some reports, a considerable percentage of students nationwide have fallen victim to bullying and recent developments in technology have contributed to the rise of bullying by electronic means. This bill:

Defines "bullying"; provides that conduct is considered bullying if that conduct exploits an imbalance of power between the student perpetrator and student victim through written or verbal expression or physical conduct and interferes with a student's education or substantially disrupts the operation of a school; and requires the board of trustees of each school district to adopt a policy, including necessary procedures, concerning bullying that includes certain information.

Authorizes staff development to include training in preventing, identifying, responding to, and reporting incidents of bullying.

Authorizes the board of trustees of a school district to transfer the student who engaged in bullying to another classroom at the campus or to a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying; and provides that Section 37.004 (Placement of Students with Disabilities), Education Code, applies to a transfer of such a student with a disability who receives special education services.

Requires SBOE to adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address certain topics regarding bullying and harassment.

Administration of Assessments for Certain Public School Students—H.B. 2135

by Representatives Hochberg and White—Senate Sponsor: Senator Patrick

Currently, the state is preparing to implement the new academic assessment program, the State of Texas Assessments of Academic Readiness (STAAR). Under the STAAR program, certain eighth grade students who are enrolled in algebra for high school will be required to take the eighth grade STAAR mathematics test and the algebra end-of-course test. This has created a situation where algebra teachers are interrupting the algebra course to take up a review of the eighth-grade mathematics course mid-year. This bill:

Provides that Section 28.0211 (Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction), Education Code, does not require the administration of a fifth or eighth grade assessment instrument in certain subjects to a student enrolled in the fifth or eighth grade if the student is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument that aligns with the curriculum for the course in which the student is enrolled or if the student is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment for the course.

Prohibits such a student from being denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student in accordance with that exception.

Provides that a student is not required to be assessed in a subject otherwise assessed at the student's grade level if the student is enrolled in a course in the subject intended for students above the student's grade level and will be

administered an assessment instrument that aligns with the curriculum for the course in which the student is enrolled or if the student is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted for the course.

Provides that nothing in Section 39.025, Education Code, has the effect of prohibiting the administration of an end-of-course assessment instrument to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted and requires that the commissioner of education (commissioner) adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner as the performance of a student enrolled at the high school level.

Provides that the performance of a student enrolled below the high school level on an assessment instrument is included with results relating to other students enrolled at the same grade level when aggregating results of assessment instruments across grade levels by subject, and authorizes the commissioner to award a distinction designation to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument.

Funding for the Texas ChalleNGe Academy—H.B. 2247

by Representative Phil King et al.—Senate Sponsor: Senator Gallegos

The Texas Military Forces operates the Texas ChalleNGe Academy in partnership with the Youth ChalleNGe Program administered by the National Guard Bureau. Currently, Foundation School Program (FSP) funding is sent directly to the school district of the Texas ChalleNGe Academy students, but by receiving funding through the adjutant general's department the Texas ChalleNGe Academy will be eligible for additional federal funding. This bill:

Entitles the adjutant general's department to allotments from the Foundation School Program under Chapter 42 (Foundation School Program), Education Code, for each student enrolled in the Texas ChalleNGe Academy, as if the academy were a school district without a tier one local share for purposes of Section 42.253 (Distribution of Foundation School Fund), Education Code.

Requires the adjutant general's department to contract with an appropriate school district for the provision of educational services for students enrolled in the academy, and provides that the school district contracted with is responsible for ensuring compliance with applicable regulatory requirements imposed under the Education Code and enforced by the commissioner of education and the Texas Education Agency.

Preferential Admission at Certain Open-Enrollment Charter Schools—H.B. 2366

by Representative Truitt—Senate Sponsor: Senator Nelson

Westlake Academy is the only municipally owned and operated open-enrollment charter school in Texas. Texas charter schools are generally governed by the Texas Education Code and an array of federal laws. One of these federal laws is the Charter Schools Program (CSP) and adherence to CSP regulations can gain federal funds for charter schools. If a charter school receiving funds has more applicants than positions, CSP requires the school to establish a lottery to determine which students will be admitted and generally all students must participate in the lottery. Certain categories of applicants, however, may be exempted and one exemption category is children of employees in a work-site charter school. This bill:

Provides that an open-enrollment charter school authorized by a charter to a municipality is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admission policies that apply to open-enrollment charter schools receiving federal funding.

Authorizes such an open-enrollment charter school to admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted constitute a small percentage of the school's total enrollment.

Contract Employment by School Districts for Certain Employees—H.B. 2380

by Representatives Shelton and Reynolds—Senate Sponsor: Senator Shapiro

Currently, if an employee on a continuing or term contract is reassigned to a new professional capacity within a school district, that person continues employment on a continuing or term contract. Interested parties say this occurs even though there is no guarantee that someone serving in one capacity will succeed in another. This bill:

Authorizes a person who voluntarily accepts an assignment in a new professional capacity that requires a different class of certification than the class of certification held by that person in the professional capacity in which the person was previously employed to be employed under a probationary contract.

Provides that that provision does not apply to a person who is returned by a school district to a professional capacity in which the person was previously employed by the district and provides that a person who is returned to a previous professional capacity is entitled to be employed in the original professional capacity under the same contractual status as the status held by that person during the previous employment by the district in that capacity.

Generation Texas Week—H.B. 2909

by Representative Branch—Senate Sponsor: Senator Shapiro

The Texas Higher Education Coordinating Board (THECB) recently developed a campaign to increase awareness and build support for new college and career readiness standards, prepare students for all postsecondary education options, and clarify the application process for postsecondary admission and student financial aid. This bill:

Renames the "Education: Go Get It" Week as the Generation Texas Week, and during that week requires each middle school, junior high school, and high school to provide students with information regarding college readiness standards and expectations as determined under Section 28.008 (Advancement of College Readiness in Curriculum), Education Code, in addition to other comprehensive grade-appropriate information regarding the pursuit of higher education.

Authorizes the co-chairs of the P-16 Council to appoint six, rather than three, additional members who are education professionals, agency representatives, business representatives, or other members of the community.

Requires, rather than authorizes, the public awareness campaign promoting higher education to include certain information and requires THECB to coordinate with TEA, the P-16 Council, and other appropriate entities, including regional P-16 councils and businesses, to implement the public awareness campaign.

Confidentiality of Teacher and Administrator Performance Evaluations—H.B. 2971

by Representative Todd Smith—Senate Sponsor: Senator Davis

Current law maintains that the performance evaluations of a public school educator or administrator is confidential under a request made under the Texas Public Information Act, but performance evaluations of educators and administrators at open-enrollment charter schools are not considered confidential. This bill:

Provides that a document evaluating the performance of a teacher or administrator employed by an open-enrollment charter school is confidential regardless of whether the teacher or administrator is certified.

Authorizes an open-enrollment charter school to provide a document evaluating the performance of a teacher or administrator employed by the school to a school district or open-enrollment charter school at which the teacher or administrator has applied for employment at the request of that district or charter school.

Provides that the changes made by this Act apply to each document evaluating the performance of a teacher or administrator, regardless of whether the document was created before, on, or after the effective date of this Act.

Membership on Certain Councils, Boards, and Other Entities—H.B. 3278

by Representative Shelton—Senate Sponsor: Senator Shapiro

The recent mandatory cuts to state agency budgets resulted in a considerable reduction to the staff of TEA. TEA is required to participate on many advisory councils that have little to no relevance to education and freeing TEA from those responsibilities will allow TEA to better focus efforts on education priorities. This bill:

Removes TEA from the list of agencies that provide a representative to or are a member of the Interagency Work Group on Border Issues, the Interagency Coordinating Council for HIV and Hepatitis, and the Council on Cardiovascular Disease and Stroke, and that designate a liaison for faith-based and community-based organizations, and provides that TEA is not required to participate in the Advisory Committee on Reducing Drug Demand.

Provides that the Texas Diabetes Council is composed of 11 citizens members appointed from the public and one representative each from DSHS, HHSC, and the Department of Assistive and Rehabilitative Services; and removes TEA from membership on that council and participation in certain activities with the council.

Reduces the number of members on the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments from 31 to 29 members, and removes TEA from the list of agencies that provide a member to serve on that committee.

Provides that the interagency work group in Section 121.0015 (Interagency Work Group), Human Resources Code, is composed of a representative of each health and human services agency designated by the executive commissioner of HHSC, requires the commissioner of each designated agency to appoint the representative for that agency, and removes TEA from the agencies with a representative on the work group.

Reduces the number of members on the Auctioneer Education Advisory Board from seven to six members, and removes the commissioner of education or the commissioner's designee from the list of members appointed to the advisory board.

College Readiness Assessment and Developmental Education—H.B. 3468

by Representatives Diane Patrick and Branch—Senate Sponsor: Senator Shapiro

In order to continue competing in a global economy and to better prepare students for the future job market, high school students need to complete postsecondary education in greater numbers. According to certain reports, a significant portion of first-year community college and university students have enrolled in at least one developmental education course, but of those students, only a relative minority go on to earn a bachelor's degree. A close examination of existing state assessment and developmental education programs, successful early assessment pilots around the state, and best practices across the country will allow for Texas to design a more responsive, cost-effective program for students and institutions of higher education. This bill:

Requires TEA, in consultation with THECB, to conduct a study of best practices for and existing programs offering early assessments of high school students in order to determine college readiness, identify any deficiencies in college readiness, and provide intervention to address any deficiencies before high school graduation.

Requires TEA, in conducting the study, to review various assessment methods; various early intervention models; the costs associated with different assessments and early intervention models; and the effectiveness of different assessments and early intervention models in preparing students for college coursework for which course credit may be earned.

Requires TEA, in consultation with certain entities and not later than December 1, 2012, to submit to the governor and certain members of the legislature a written report that contains recommendations for promoting and implementing early assessments of college readiness that are of a diagnostic nature and early intervention models for preparing high school students for college coursework for which course credit may be earned.

Requires TEA, in consultation with THECB, to review the standardized assessment mechanism required under Section 29.252(a)(8) (relating to TEA adopting or developing a standardized assessment mechanism for assessing all adult education program participants who need literacy instruction, adult basic education, or secondary education leading to an adult high school diploma or the equivalent), Education Code, and to recommend any changes necessary to align the assessment with certain other assessments to allow for the proper placement of a student in an adult basic education course or to provide the student with the proper developmental or English as a second language coursework, as appropriate.

Requires THECB to encourage institutions of higher education to offer various types of developmental coursework that address various levels of deficiency in readiness to perform college coursework for which course credit may be earned, provides the types of developmental coursework that may be included, and authorizes THECB to adopt any rules necessary for implementation.

Requires THECB, in consultation with institutions of higher education, to use evidence-based studies and existing data to study and analyze assessment instruments that are currently used or could be used by institutions; differentiated placements for developmental coursework based on a student's demonstrated proficiencies or deficiencies in readiness to perform college coursework for which course credit may be earned; whether certain funding formulas, as applied to developmental coursework, result in or service efficient and cost-effective implementation of successful developmental education; and whether any nonapplicability categories should be retained.

Requires THECB, not later than December 1, 2012, to submit a written report based on the study to the governor and certain members of the legislature recommending a statewide diagnostic standard assessment instrument that allows for certain considerations.

Requires THECB to include in its periodic review of formulas, recommendations for changes in funding formulas for developmental education programs based on the results of the study and the submitted report.

Additional Uses of Transportation Allotment Funds—H.B. 3506

by Representative Villarreal—Senate Sponsor: Senator Davis

Currently, school districts are not permitted to use transportation allotment funds to pay for public transportation methods of transporting students to school. For some districts, it is inefficient to use district transportation methods to transport children, especially when the available public transportation option is less expensive or more efficient. This bill:

Authorizes a school district to use transportation allotment funds to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system is not a feasible method of providing transportation.

Requires the commissioner of education, by rule, to provide procedures for a school district to provide bus passes or cards to such a student.

Policies for Care of Certain Students at Risk for Anaphylaxis—S.B. 27

by Senator Zaffirini et al.—House Sponsors: Representatives Branch and Hochberg

There is concern that certain schools are unprepared for a student's food allergy reaction. Interested parties contend that establishing a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis will greatly reduce the possibility of a fatal attack. This bill:

Requires the board of trustees of each school district and the governing body or an appropriate office of each open-enrollment charter school to adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services (commissioner) in consultation with an ad hoc committee appointed by the commissioner.

Requires the board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school to implement such a policy not later than August 1, 2012, and requires a school district or open-enrollment charter school that implements such a policy before the development of the guidelines to review the policy and revise the policy as necessary to ensure the policy is consistent with the guidelines.

Requires the commissioner, not later than December 1, 2011, to appoint members to an ad hoc committee, specifies the membership on the committee, and requires the commissioner in consultation with the ad hoc committee, not later than May 1, 2012, to develop guidelines for the care of students with a diagnosed food allergy at risk for anaphylaxis.

Written Notification Relating to Disciplinary Alternative Education Programs—S.B. 49

by Senators Zaffirini and West—House Sponsor: Representative Guillen

A school district is currently required to offer a student in DAEP the opportunity to complete coursework before the beginning of the next school year at no cost to the student. It has been suggested, however, that students and parents are not always fully informed of this obligation. This bill:

Requires a school district to provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation, and requires the notice to include certain information.

Provides that this Act applies beginning with the 2011-2012 school year.

Certification to Teach Students With Visual Impairments—S.B. 54

by Senator Zaffirini—House Sponsor: Representative Eissler

A student with a visual impairment is currently required to be taught by a certified teacher. According to interested parties, teachers of students with visual impairments can obtain the supplemental visual impairment certification in several ways, not all of which require the completion of certain approved course work. This bill:

Provides that to be eligible to be issued a certificate to teach students with visual impairments, a person must complete either all course work required for that certification in an approved educator preparation program or an alternative educator certification program approved for the purpose by SBEC; must perform satisfactorily on each

examination prescribed under Section 21.048 (Certification Examinations), Education Code, for certification to teach students with visual impairments; and must satisfy any other requirements prescribed by SBEC.

Provides that the changes made by this Act do not apply to eligibility for a certificate to teach students with visual impairment, including eligibility for the renewal of that certificate, if the application for the initial certificate was submitted on or before September 1, 2011.

Summer Nutrition Programs—S.B. 89

by Senator Lucio et al.—House Sponsor: Representative Eddie Rodriguez

The purpose of S.B. 89 is to increase participation in the Summer Food Program, which provides low-income children with nutritious meals during summer months. Current Texas law requires a school district to participate in the program if at least 60 percent of students in the district are eligible for free or reduced price lunch. The program can be administered either on campus or at alternative sites in the community, and the districts have the ability to apply for a waiver if they cannot provide the program. This bill:

Requires a school district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program to provide or arrange for the provision of a summer nutrition program for at least 30 days during the period in which district schools are recessed for the summer, unless a school district that meets certain criteria is granted a waiver by the Texas Department of Agriculture (TDA).

Requires TDA, not later than October 31 of each year, to notify each eligible school district of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recess for the summer; and requires each school district that receives notice from TDA, not later than January 31 of the year following the year in which the notice was received, to inform TDA in writing that the district intends to provide or arrange for the provision of a summer nutrition program or to request in writing that TDA grant the district a waiver of that requirement.

Authorizes TDA to grant a school district a waiver from the requirement to provide or arrange for the provision of a summer nutrition program if the school district meets certain criteria, including that the cost to the district would be cost-prohibitive, requires TDA to establish, by rule, criteria and a methodology for determining whether the cost to a school district would be cost-prohibitive, and provides that a waiver granted by TDA to a school district is for a one-year period.

Requires TDA, not later than December 31 of each even-numbered year, to provide to the legislature by e-mail a report that provides certain information regarding the summer nutrition programs of school districts.

Repeals Section 33.024 (Summer Food Service Program), Human Resources Code.

College Credit Program—S.B. 149

by Senator West—House Sponsor: Representative Castro

Learning opportunities that allow students to gain college-level credit often are referred to as dual-credit programs, and such programs are experiencing a growth in both the number of students who take advantage of them and the number of schools that offer them. Texas high schools are following this national trend and increasingly are offering dual-credit courses to high school students. However, there needs to be a mutually beneficial and supportive partnership between TEA and THECB, which needs to include rules that outline each agency's specific functions regarding dual-credit programs and related reporting requirements. This bill:

Authorizes the commissioner of education (commissioner) to adopt rules as necessary concerning the duties of a school district under Section 28.009 (College Credit Program), Education Code, and authorizes THECB to adopt rules as necessary concerning the duties of a public institution of higher education under that section.

Amends Section 28.009(c), Education Code, effective September 1, 2011, to require each school district to annually report to TEA the number of district students, including career and technical students, who have participated in the College Credit Program and the courses in which participating district students have earned high school credit under Section 28.009.

Amends Section 28.009(c), Education Code, effective September 1, 2013, to require the commissioner and THECB to share data as necessary to enable school districts to comply with that subsection.

Requires THECB, effective September 1, 2013, to collect student course credit data from public institutions of higher education as necessary for purposes of Section 28.009(c).

Eligibility for Certain Group Health Benefit Programs—S.B. 155

by Senator Huffman—House Sponsor: Representative Zerwas

Recent legislation entitles a school district employee who resigns at the end of a school year to health insurance coverage through the summer and prohibits a school district from diminishing or eliminating health insurance coverage before the last date on which the employee was entitled to participate in a group health insurance program. While the majority of school districts begin coverage at the beginning of a school year, not every school district's instructional year matches the district's medical plan years, raising some questions as to the period of coverage that a district must provide. This bill:

Provides that an employee of a district participating in certain uniform group coverage program or providing certain group health coverage whose resignation is effective after the last day of an instructional year is entitled to participate or be enrolled in the uniform group coverage plan or the group health coverage through the earlier of either the first anniversary of the date of participation in or coverage under the uniform group coverage plan or the date the group health coverage was first made available to district employees for the last instructional year in which the employee was employed by the district or the last calendar day following the first day of the instructional year immediately following the last instructional year in which the employee was employed by the district.

Provides that the change made by the Act applies beginning with the 2012-2013 school year.

Reporting of Student Performance on Physical Fitness Assessment Instrument—S.B. 226

by Senators Nelson and Van de Putte—House Sponsor: Representative Todd Smith

Student health has been shown in numerous studies to be closely tied to academic performance, attendance, and behavior. Recent legislation required school districts to assess the fitness of their students and submit the results to TEA in an aggregate manner. The legislation also required TEA to correlate this data with academic and attendance data, but accurate correlations cannot currently be made because TEA is unable to match an individual student's academic performance with the student's physical fitness performance. This bill:

Requires a school district to provide to TEA the results of individual student performance on the physical fitness assessment required by statute rather than a summary of the physical fitness assessment results, and prohibits the results from containing the names of individual students or teachers or a student's Social Security number or date of birth.

Provides that this Act applies beginning with the 2011-2012 school year.

Personal Financial Literacy Component in Public School Mathematics Instruction—S.B. 290

by Senator Watson et al.—House Sponsor: Representative Hernandez Luna

The purpose of this legislation is to embed financial concepts in kindergarten through eighth grade curriculum so that children learn financial literacy at an early age. This bill:

Provides that TEKS and, as applicable, Section 28.025 (High School Diploma and Certificate; Academic Achievement Record), Education Code, shall require instruction in personal financial literacy in mathematics instruction in kindergarten through grade eighth and one or more courses required for high school graduation.

Requires the commissioner of education to adopt a list of instructional materials that convey information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for personal financial literacy in kindergarten through eighth grade.

Requires SBOE, for purposes of the textbook review and adoption requirements under Section 31.022 (Textbook Review and Adoption), Education Code, to review and adopt mathematics textbooks that satisfy those requirements on the next scheduled review and adoption cycle for mathematics textbooks after the effective date of this Act.

Provides that this Act applies beginning with the 2011-2012 school year.

Textbook Electronic Samples—S.B. 391

by Senator Patrick—House Sponsor: Representative Eissler

Textbook publishers are currently required to provide school districts with sample copies of adopted textbooks on request of a district. The printing and binding of these hardcopy draft books is expensive and poses a security challenge to publishers and districts. Since these sample textbooks are drafts and may still contain errors, they are never used. This bill:

Requires a notice of the review and adoption cycle for textbooks to state that a publisher of an adopted textbook for a grade level other than prekindergarten must submit an electronic sample of the textbook and may not submit a print submit copy, and changes references from "sample copy" to "an electronic sample" in Section 31.027 (Information to School Districts; Sample Copies), Education Code.

Membership of Local School Health Advisory Councils—S.B. 736

by Senator Hinojosa—House Sponsors: Representatives Dukes and Naishtat

School districts in Texas are currently required to adopt a dating violence policy that includes awareness education for students and parents. Local school health advisory councils, made up of parents and local community members, advise a school district on the health curricula used in the school district. This bill:

Authorizes the board of trustees of a school district to appoint one or more persons from local domestic violence programs to the local school health advisory council.

Parental Role in Determining Sanctions on a Public School Campus—S.B. 738

by Senator Shapiro—House Sponsor: Representative Villarreal

Interested parties assert that current law does not adequately provide for parental participation in applying certain sanctions to a school with an unacceptable performance rating. This bill:

Requires that the commissioner of education order the specific action requested if the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents of a majority of the students enrolled at a campus that is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted, specifying that the parents request the commissioner to order either the repurposing of the campus; alternative management of the campus; or closure of the campus.

Authorizes the commissioner of education to order an action requested by the board of trustees if the board of trustees of the school district in which the campus is located presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order one of those specific actions other than the specific action requested in the parents' petition and presents a written explanation of the basis for the board's request.

Provides that this Act applies beginning with the 2011-2012 school year.

Prohibition Against Using School District Resources for a Hotel—S.B. 764

by Senator Williams—House Sponsor: Representative Ritter

An independent school district explored creating a hotel on school property, but concerns were raised that such an activity diverts the focus of the district away from educating children. This bill:

Defines "hotel."

Prohibits the board of trustees of an independent school district from imposing taxes, issuing bonds, using or authorizing the use of school district employees, using or authorizing the use of school district property, money, or other resources, or acquiring property for the design, construction, renovation, or operation of a hotel.

Prohibits the board of trustees of an independent school district from entering into a lease, contract, or other agreement that obligates the board to engage in such a prohibited activity or to use district employees or resources in such a prohibited manner.

Membership on Planning and Decision-Making Committees—S.B. 778

by Senators Williams and Seliger—House Sponsor: Representative Huberty

Previous legislative actions put in place a process by which district-level and campus-level planning and decision-making committees were created to assist school districts or campuses in making the best decisions for improving student achievement and services. This bill:

Requires that if practical, membership on district-level and campus-level planning and decision-making committees include at least one professional staff representative with the primary responsibility for educating students with disabilities.

Education of Public School Students With Dyslexia—S.B. 866

by Senators Deuell and Huffman—House Sponsor: Representative Jim Jackson

There are concerns that educators are not adequately instructed on how to detect or educate students with dyslexia and that, without being tested for dyslexia, students enrolling in public schools will not have access to the treatment and learning tools that might facilitate their education. This bill:

Requires that any minimum academic qualifications for a certificate that require a person to possess a bachelor's degree also require that the person receive, as part of the curriculum for that degree, instruction in detection and education of students with dyslexia, provides that that does not apply to a person who obtains a certificate through an alternative certification program, and provides certain requirements regarding that instruction.

Requires that continuing education requirements for an educator who teaches students with dyslexia to include training regarding new research and practices in educating students with dyslexia, and authorizes the training to be offered in an online course.

Prohibits a student determined to have dyslexia during testing or accommodated because of dyslexia from being retested for dyslexia for the purpose of reassessing the student's need for accommodation until the school district reevaluates the information obtained from previous testing of the student.

Requires TEA to establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia, provides certain requirements regarding that plan, and requires TEA to provide the plan and certain information to school districts.

Prohibits an institution of higher education from reassessing a student determined to have dyslexia for the purpose of assessing the student's need for accommodation until the institution reevaluates the information obtained from previous assessments of the student.

Partnerships Operating Dropout Recovery Programs—S.B. 975

by Senator Hinojosa et al.—House Sponsors: Representatives Munoz, Jr., and Diane Patrick

Public schools face the challenge of helping all students graduate, but many students fail to graduate on time and are classified as dropouts. As a consequence, many of these students struggle to find gainful employment and are unable to pursue higher education. This bill:

Authorizes a public junior college, beginning September 1, 2012, to enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college a dropout recovery program for certain students who are under 26 years of age that meet certain criteria to successfully complete and receive a diploma from a high school of the appropriate partnering school district.

Provides that the partnership applies to a public junior college located in a county with a population of 750,000 or more and with less than 65 percent of the population 25 years and older having graduated from high school, and applies to a school district with a dropout rate that is higher than 15 percent.

Requires the public junior college to design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification; to integrate certain research-based strategies into the dropout recovery curriculum to assist students in becoming able academically to pursue postsecondary education; to offer advance academic and transition opportunities, including dual credit courses and college preparatory courses; and to coordinate with each partnering school district to provide in the articulation agreement that the district retains accountability for student attendance, student completion of high school course requirements, and student performance on assessment instruments as necessary for the student to receive a diploma from a high school of the partnering school district.

Authorizes the public junior college district to receive from each partnering school district for each student from that district enrolled in such a dropout recovery program an amount negotiated based on certain requirements between the junior college district and the partnering district, and provides that such a public junior college is eligible to receive dropout prevention and intervention program funds appropriated to TEA.

Eligibility of Employees Convicted of Certain Offenses to Provide Contract Services—S.B. 1042

by Senator Hegar—House Sponsor: Representative Jim Jackson

Previous legislation required background checks for teachers, administrators, and other individuals employed by school districts. One unintended consequence of that legislation was that subcontractors were not required to check the background of their own employees, but general contractors were responsible for checking the background of both their own employees and the various subcontractors' employees, and this created practical problems and legal problems. Subsequent legislation attempted to correct that problem, but due to a drafting error that legislation did not reference the correct section of the Education Code. This bill:

Prohibits a contracting or subcontracting entity to permit certain employees to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Section 22.085(a) (relating to employees and applicants convicted of certain offenses), Education Code, rather than prevent a person from obtaining a certification as an educator under Section 21.060 (Eligibility of Persons Convicted of Certain Offenses), Education Code.

Provides that the changes made by this Act apply to the provision of services at a public school by an employee of a contracting or subcontracting entity without regard to whether the contract or subcontract under which the person is employed was entered into before, on, or after the effective date of this Act.

Online High School Equivalency Examinations—S.B. 1094

by Senator Rodriguez—House Sponsor: Representative Strama

Requiring a high school equivalency examination to be taken at an official testing center may place a burden on working Texans who may find it difficult to find time to travel to and take the test at a testing center. This bill:

Requires SBOE, by rule, to develop and deliver high school equivalency examinations and provide for the administration of the examinations online.

Requires the rules to provide a procedure for verifying the identity of the person taking the examination and to prohibit a person under 18 years of age from taking the examination online.

Provides that this Act applies beginning with the 2011-2012 school year.

Appraisal and Professional Development System for Principals—S.B. 1383

by Senators Shapiro and Patrick—House Sponsor: Representative Eissler

Concern has been expressed that while principals are the school leaders who ensure that each campus has a positive learning environment and that teachers continuously improve classroom performance, principals are often forgotten in the cycle of continuous improvement and must be provided better feedback and support and that while principals have an impact on the success of teachers and students, the State of Texas has continuously raised expectations for teachers but has not done the same for principals. This bill:

Requires the commissioner of education by rule to establish and administer a comprehensive appraisal and professional development system for principals and authorizes the commissioner to establish a consortium of nationally recognized experts on educational leadership and policy to assist the commissioner regarding the appraisal and development system for principals.

Requires the commissioner of education to establish school leadership standards and a set of indicators of successful school leadership to align with the training, appraisal, and professional development of principals.

Requires each school district to appraise principals using either the appraisal system and school leadership standards and indicators developed or established by the commissioner or an appraisal process and performance criteria developed by the district in consultation with the district-level and campus-level committees established and adopted by the board of trustees; and requires each school district to appraise each principal annually.

Requires the commissioner of education, not later than December 1 of 2012 and 2014, to submit a written report to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing legislative committee with primary jurisdiction over public education of any action taken regarding the appraisal and professional development system for principals and any recommendations for legislative action concerning the training, appraisal, professional development, or compensation of principals.

Provides that Section 21.354 (Appraisal of Administrators), Education Code, does not apply to the appraisal of the performance of a principal and amends Section 21.451 (Staff Development Requirements), Education Code, to provide that Section 21.3541 (Appraisal and Professional Development System for Principals), Education Code, and rules adopted under that section govern the professional development provided to a principal.

Repeals Section 21.354(e) (relating to requiring an appraisal of a principal to include consideration of the performance of a principal's campus on the student achievement indicators), Education Code.

Tech-Prep Programs and Tech-Prep Consortia—S.B. 1410

by Senator Duncan—House Sponsor: Representative Diane Patrick

Tech-prep programs combine high school career and technical education with a minimum of two years of postsecondary education. Tech-prep consortia, which are partnerships including school districts and community colleges, develop articulation agreements that allow high school students to earn college credit for the advanced career and technology courses they take. This bill:

Requires TEA to establish procedures for each school district and open-enrollment charter school to accurately identify students who are enrolled in a tech-prep program as described by Section 61.852 (Tech-Prep Program), Education Code, and report the accurate number of tech-prep program students to TEA and THECB.

Requires THECB to develop and implement a statewide system to evaluate each tech-prep consortium, and requires the evaluation to include an assessment of the consortium's performance during the past year in comparison to the goals and objectives stated in the five-year plan contained in the consortium's grant application to THECB; an identification of any concerns THECB has regarding the consortium's performance; and recommendations for improvement by the consortium in the next year.

Requires THECB to evaluate each tech-prep consortium annually, rather than biennially, and requires the annual evaluation to be conducted on-site at least once every four years, or more frequently as provided by THECB rule.

Requires THECB to provide a written report to each tech-prep consortium with the results of the evaluation not later than November 1 of each year, rather than October 1 of each even-numbered year, and requires the report to include certain information.

Academic Distinction Designations for Open-Enrollment Charter Schools—S.B. 1484

by Senator Shapiro—House Sponsor: Representative Strama

Public school districts and campuses are currently able to earn academic distinction designations to highlight achievement in certain categories of performance. These distinctions recognize campuses not just for their students

passing state assessments, but for taking steps to enrich their students through a variety of curriculum areas. However, charter schools are not explicitly included as being eligible to earn distinction designations. This bill:

Prohibits an open-enrollment charter school, in addition to the condition prescribed by Section 39.201(b) (relating to performance required for distinction designation), Education Code, to be awarded a distinction designation if the charter school is evaluated under alternative education accountability procedures adopted by the commissioner of education.

Provides that in Subchapter G (Distinction Designations), Chapter 39 (Public School System Accountability), Education Code, a district includes an open-enrollment charter school that operates on more than one campus and a campus includes an open-enrollment charter school campus.

Provides that an open-enrollment charter school is subject to public school accountability under Subchapter G, Chapter 39, Education Code.

Investment in Corporate Bonds by Independent School Districts—S.B. 1543

by Senator Wentworth—House Sponsor: Representative Larson

Interested parties contend that current law is insufficient with regard to the authority of an independent school district to invest in corporate bonds. This bill:

Adds Section 2256.0204 (Authorized Investments: Independent School Districts), Government Code, and defines, in that section, "corporate bond."

Provides that Section 2256.0204 applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001 (Definitions), Government Code.

Authorizes an independent school district subject to Section 2256.0204 to purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

Provides that an independent school district subject to Section 2256.0204 is not authorized by that section to invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or to invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of that entity.

Authorizes an independent school district subject to Section 2256.0204 to purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district takes certain actions.

Requires the investment officer of an independent school district to sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm takes certain actions.

Provides that corporate bonds are not an eligible investment for a public funds investment pool.

Texas High Performance Schools Consortium—S.B. 1557*by Senator Carona—House Sponsor: Representative Strama*

Ensuring quality public education is a fundamental and enduring duty of the state. As policymakers consider changes to accomplish better accountability and more effective assessments in the public school system, it is essential that input from school districts around the state, as well as contemporary research, be considered. This bill:

Establishes the Texas High Performance School Consortium (consortium) to inform the governor, legislature, and commissioner of education concerning methods for transforming public schools in Texas by improving student learning through the development of innovative, next-generation learning standards, and assessment and accountability systems.

Authorizes the commissioner of education to select not more than 20 participants for the consortium from among school districts and eligible open-enrollment charter schools that apply to participate in the consortium; requires the districts selected to participate in the consortium to represent a range of district types, sizes, and diverse student populations; and requires an open-enrollment charter school to have been awarded an exemplary distinction during the preceding school year in order to be eligible to participate in the consortium.

Prohibits the number of students enrolled in consortium participants from being greater than a number equal to five percent of the total number of students enrolled in public schools in Texas.

Requires the application process for participating in the consortium to require school districts and open-enrollment charter schools to submit a detailed plan designed to both support improved instruction of and learning by students and provide evidence of the accurate assessment of the quality of learning on campuses; and requires certain information be included in the detailed plan submitted by a district or open-enrollment charter school.

Requires the commissioner of education, in consultation with interested school districts, open-enrollment charter schools, and other appropriate interested persons, to adopt rules applicable to the consortium, according to certain principles for a next generation of higher performing public schools.

Requires the commissioner of education to convene consortium leaders periodically to discuss methods to transform learning opportunities for all students, build cross-district and cross-school support systems and training, and share best practices tools and processes; and authorizes the commissioner to charge a fee to a school district or open-enrollment charter school participating in the consortium to cover the costs of administering the consortium.

Requires the commissioner to submit reports concerning the performance and progress of the consortium to the governor and the legislature not later than December 1, 2012, and not later than December 1, 2014; and requires the report submitted not later than December 1, 2012, to include any recommendations by the commissioner concerning legislative authorization for the commissioner to waive a prohibition, requirement, or restriction that applies to a consortium participant and a plan for an accountability system for consortium participants.

Provides a timeline for the implementation of the consortium and the selection process of school districts and eligible open-enrollment charter schools to participate in the consortium.

Participation of Public High School Students in College Credit Programs—S.B. 1619*by Senator Duncan—House Sponsor: Representative Aycock*

Under a provision of current law, a school district is not required to pay a student's tuition or other associated costs for taking a course that provides college credit under a college credit program.

TEA previously sent notice to school districts stating that a district could not count students in attendance for state funding purposes in dual credit courses if those students were charged any tuition, fees, or textbook costs. Because of concerns raised by legislators, TEA delayed implementing that policy until the legislature had a chance to address it, which the legislature did by allowing districts, until September 1, 2011, to continue to count such students in attendance for state funding purposes. This bill:

Extends from September 1, 2011, to September 1, 2013, the expiration date of Section 28.009(a-2), Education Code, relating to a school district not being required to pay a student's tuition or other associated costs for taking a course under Section 28.009 (College Credit Program), Education Code.

Amends Section 42.005(g), Education Code, as effective on September 1, 2011, to require that the time during which a student attends a course, if a student is authorized to receive course credit toward the student's high school academic requirements and toward the student's higher education academic requirements for a single course, including a course provided under Section 28.009 by a public institution of higher education, be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of Section 42.005 (Average Daily Attendance), Education Code.

Satisfying Certain Curriculum Requirements With Applied STEM Courses—S.B. 1620

by Senators Duncan and Van de Putte—House Sponsor: Representative Aycock

Currently, there is a lack of consistency throughout the state in allowing career and technology education courses to count as fourth year applied mathematics and science courses. This bill:

Defines "applied STEM course"; requires SBOE to establish a process under which an applied STEM course may be reviewed and approved for purposes of satisfying the mathematics and science curriculum requirements for the recommended high school program through substitute of the applied STEM course for a specific mathematics or science course otherwise required under the program and completed during the student's fourth year of mathematics or science course work.

Requires that the process provide that an applied STEM course is entitled to be approved if the course meets certain requirements, and requires that such an applied STEM course may only be approved to substitute for a mathematics course or science course that is taken after successful completion of certain other courses.

Provides that a student is eligible to enroll in the applied STEM course that is part of a coherent sequence of career and technology courses only if the student has completed the prerequisite course work, if any, for the applied STEM course.

Requires SBEC to specify that to obtain a certificate to teach an "applied STEM course" at a secondary school, a person must pass the certification test administered by the recognized national or international business and industry group that created the curriculum the applied STEM course is based on, and must fulfill certain other criteria.

Requires THECB to work with institutions of higher education to ensure that credit for an applied STEM course may be applied to relevant degree programs offered by institutions of higher education in Texas, and requires THECB to include applied STEM courses in THECB's review of courses considered for approval for offer by a public junior college or public technical institute.

Individualized Education Program Model Form—S.B. 1788

by Senator Patrick—House Sponsor: Representative Huberty

Currently, a student in a special education program must be provided with an individualized education program (IEP) that clearly documents what services and programs will be provided to the student. According to interested parties, school districts create their own IEP forms, which can create certain issues because of differences between the IEP forms of different school districts. The United States Department of Education developed a model IEP form that contains all the elements required under federal law and is only four pages in length. Other states have adopted this form, tailoring it to their state laws, which greatly simplifies the IEP process. This bill:

Requires TEA to develop a model form for use in developing an IEP and requires the form to be clear, concise, well organized, and understandable to parents and educators.

Authorizes the form to include only the information included in the model form developed under 20 U.S.C. Section 1417(e)(1); a state-imposed requirement relevant to an IEP that is not required under federal law; and the requirements identified under 20 U.S.C. Section 1407(a)(2).

Requires TEA to post on TEA's website the model form, and authorizes a school district to use the form to comply with the requirements for an IEP under 20 U.S.C. Section 1414(d).

Authorizes the written statement of a student's IEP to be required to include only information included in the model form developed by TEA.

Requires that appropriate state transition planning under the procedure under Section 29.011 (Transition Planning), Education Code, begins for a student who is enrolled in a special education program not later than when the student reaches 14 years of age.

Requires TEA to develop the model form not later than December 1, 2011.

Newborn and Infant Screening and Follow-Up Services—H.B. 411

by Representatives Laubenberg and Crownover—Senate Sponsor: Senator Deuell

Section 33.011 (Test Requirement), Health and Safety Code, requires a physician or the person attending the delivery of a newborn to perform newborn screening tests approved by the Department of State Health Services (DSHS) for certain heritable disease and other disorders for which screening is required. H.B. 1672, 81st Legislature, Regular Session, 2009, sought to address concerns related to the retention of genetic material from a newborn screening test and its uses in research.

In Texas, approximately three out of every 1,000 babies born will have hearing loss. Detecting hearing loss in newborns and certain intervention can help prevent delays in speaking, learning, and other forms of development. This bill:

Modifies requirements relating to the disclosure statement DSHS is required to develop that clearly discloses to the parent, managing conservator, or guardian of a newborn child subjected to approved screening tests for certain diseases and disorders that DSHS or a laboratory established or approved by DSHS may retain for use by DSHS or a laboratory genetic material used to conduct the newborn screening tests and discloses how the material is managed and used; and that reports, records, and information obtained by DSHS that do not identify a child or the family of a child will not be released for public health research purposes, unless the appropriate person consents to disclosure; and that newborn screening blood spots and associated data are confidential and may only be used for certain purposes.

Modifies other requirements associated with disclosure statement to require the disclosure statement be in a format that allows the appropriate person to consent to disclosure for public research health purposes and include certain other information.

Requires the physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician to submit any document required by DSHS.

Requires DSHS to destroy any genetic material obtained from a child relating to these provisions not later than the second anniversary of the date DSHS receives the genetic material unless a parent, managing conservator, or guardian of the child consents to disclosure for public research health purposes, and deletes text relating to a previous process of prohibiting DSHS or certain laboratories from retaining or using any genetic material related to newborn screening tests and relating to destroying such genetic material.

Sets forth provisions relating to the destruction of any genetic material obtained from a child if consent to disclosure is revoked in a set forth manner.

Defines "affiliated with a health agency," "health agency," and "public health purposes."

Authorizes, notwithstanding other law, the disclosure of certain information obtained or developed by DSHS for certain purposes and to certain entities, including to DSHS public health programs for public health research purposes, provided that the disclosure is approved by certain entities, including the commissioner of state health services (commissioner) or the commissioner's designee; for purposes relating to review or quality assurance related to DSHS's newborn screening, provided that no disclosure occurs outside of the program; for purposes related to obtaining or maintaining federal certification for DSHS's laboratory, provided that no disclosure occurs outside of the program; and for purposes relating to improvement of DSHS's newborn screening or DSHS's newborn screening program services, provided that the disclosure is approved by the commissioner or the commissioner's designee.

Authorizes, notwithstanding other law, the release without consent of certain information that does not identify a child or the child's family for certain purposes, including certain purposes related to obtaining and maintaining federal

certification which include rate review and quality assurance, and other quality assurance purposes related to public health testing equipment and supplies, provided that the disclosure is approved by certain entities, including the commissioner of state health services (commissioner) or the commissioner's designee, and removes certain other purposes.

Authorizes reports, records, and information that do not identify a child or the family of a child, notwithstanding other law, to be released for certain public health research purposes if a parent, managing conservatorship, or guardian of the child consents to the disclosure and the disclosure is approved by certain entities; and provides requirements regarding notice if such disclosure is approved by the commissioner or the commissioner's designee.

Sets forth provisions for revoking such consent to disclosure, and requires DSHS to destroy any genetic material obtained from the child.

Authorizes the commissioner or the commissioner's designee to approve disclosure of certain reports, records, or information obtained or developed only for a public health purpose, and prohibits the commissioner or the commissioner's designee from approving disclosure of such items for purposes related to forensic science or health insurance underwriting.

Redefines "birthing facility."

Requires a birthing facility, through a DSHS certified newborn hearing screening, tracking, and intervention program, to perform, either directly or through a transfer agreement, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn is discharged from the facility unless the parent declines the screening, the newborn or infant is transferred to another facility prior to screening, or the screening has previously been completed, which is a modification from the previous requirement that a birthing facility offer the parents of a newborn a newborn hearing screening.

Requires the birthing facility to inform the parents during admission of certain information regarding newborn hearing screening; and requires, rather than authorizes, DSHS to maintain data and information on each newborn or infant receiving such screenings.

Provides a timeframe during which DSHS is required to ensure that the described intervention is available for a newborn or infant identified as having hearing loss.

Requires the intervention specialist to report the intervention results to DSHS, if a newborn or an infant receives medical intervention services.

Requires the program that performed the newborn hearing screening to provide the parents with the screening results, and requires a birthing facility, through the program, to offer a follow-up screening to the parents of a newborn or infant who does not pass the screening or refer the parents to another program.

Requires the program that performed the follow-up hearing screening, if a newborn or an infant does not pass the screening in a follow-up hearing screening, to provide the parents with the screening results, assist in scheduling a diagnostic audiological evaluation that is consistent with certain guidelines or referring the newborn or infant to a licensed audiologists who performs such evaluations, and refer the newborn or infant to early childhood intervention services.

Modifies requirements for certification as a program.

Requires a birthing facility that operates a program to report screening results to certain persons, including an infant's attending physician and a newborn or infant's primary care physician.

Authorizes DSHS to coordinate the diagnostic audiological evaluation, and provides certain timelines regarding its completion.

Requires an audiologist who performs a diagnostic audiological evaluation to report the evaluation's results to certain entities.

Requires, rather than authorizes, additional entities, including a health care provider and a physician, and existing entities, subject to certain confidentiality and general access provisions, to ask the information management, reporting, and tracking system to provide information to DSHS, and authorizes the entities to obtain certain information from DSHS, including that information relating to hearing screenings and reporting.

Requires a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a program to provide the services needed by the newborn or infant or refer the newborn or infant to a person who provides such services; and provide, with the parent's consent results of the follow-up care, results of audiologic testing of an infant identified with hearing loss; and reports on the initiation of intervention services to DSHS or its designee. Provides similar but not identical requirements for such persons who provide services to an infant who is diagnosed with hearing loss.

Requires a hospital that provides services to use the information management, reporting, and tracking system to report, with the consent of the infant's parent, the results of all follow-up services for an infant who does not pass the screening and the name of the provider or facility to which the infant is referred.

Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules for DSHS to implement Chapter 47 (Hearing Loss in Newborns), Health and Safety Code, and requires the executive commissioner to consider the most current guidelines established by the Joint Committee on Infant Hearing if the executive commissioner does so.

Defines "midwife."

Provides that a midwife who attends a newborn's birth is not required to offer a newborn hearing screening, but must refer the newborn's parents to a birthing facility or a provider that participates in the program.

Repeals Section 47.002 (Applicability of Chapter), Health and Safety Code.

Outreach Campaign to Promote Father Involvement—H.B. 824

by Representative Villarreal—Senate Sponsor: Senator Van de Putte

Some medical research indicates that involvement of the father during the prenatal period improves the likelihood of a healthy pregnancy, a healthy child, and a healthy family unit. This bill:

Requires the attorney general to develop and periodically update a publication that describes the importance and long-term positive effects on children of a father's involvement during a mother's pregnancy and provides guidance to prospective fathers on the positive actions that they can take to support the pregnant mother during pregnancy and the effect those actions have on pregnancy outcomes.

Requires the attorney general to make the publication available to any entity that contracts with the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and on the attorney general's Internet website in a format that allows the public to download and print the publication, and requires those entities that contract with WIC to make the publication available to each client receiving clinical or nutritional services under the program.

Sets forth the content required in the publication and requires the attorney general to consult with certain entities in developing the publication.

Administering Medications to Children in Certain Facilities—H.B. 1615

by Representative Brown—Senate Sponsor: Senator Ogden

A child died when left unsupervised after a day-care facility administered a medication that had not been approved by his parents. This bill:

Defines "medication" in Section 42.065 (Administering Medication), Human Resources Code.

Prohibits a director, owner, operator, caretaker, employee, or volunteer of a child care facility subject to this section from administering a medication to a child unless the child's parent or guardian has submitted to the child care facility a signed and dated document that authorizes the facility to administer the medication for not longer than one year and the authorized medication and its administration meet certain conditions.

Authorizes those persons to administer medication to a child under this section without a signed authorization if the child's parent or guardian submits to the child care facility an authorization in an electronic format that is capable of being viewed or saved, which expires on the first anniversary of the date the authorization is provided to child care facility; or authorizes the child care facility by telephone to administer a single dose of a medication.

Provides that this section applies only to certain child care facilities regardless of whether the facility or program is licensed, registered, or listed.

Provides that this section does not apply to a person who administers a medication to a child in a medical emergency if the medication is administered as prescribed, directed, or intended.

Provides that a person commits a Class A misdemeanor offense if the person administers a medication to a child in violation of the section, and that if conduct constituting such an offense also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections.

Concussions Affecting Student Athletes—H.B. 2038

by Representative Price et al.—Senate Sponsor: Senator Deuell

A concussion is an injury to the brain that can be caused by a blow to a person's body or head. Because the impact that results in a concussion may not result in loss of consciousness, the symptoms of a concussion, such as physical, cognitive, emotional, or sleep-related symptoms, may be missed by someone without the proper training to recognize such a condition. The medical consequences for failing to recognize and appropriately treat a concussion can sometimes result in brain swelling and death, and athletes who sustain concussions are sometimes more susceptible to repeat injury. Recent studies have shown that younger patients may recover from concussions more slowly than adults, making young athletes vulnerable. While current law establishes protocol for a student athlete who becomes unconscious while participating in an extracurricular athletic activity, statute does not provide for the safety of student athletes who sustain concussions from an impact that does not render the athlete unconscious. This bill:

Defines "advanced practice nurse," "athletic trainer," "coach," "concussion," "licensed health care professional," "neuropsychologist," "open-enrollment charter school," "physician," and "physician assistant."

Provides that Subchapter D (Prevention, Treatment, and Oversight of Concussions Affecting Student Athletes), Chapter 38 (Health and Safety), Education Code, applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by a school district, including a home-rule school district, or a public school,

including any school for which a charter has been granted under Chapter 12 (Charters), Education Code; or the University Interscholastic League.

Requires the governing body of each school district and open-enrollment charter school with students who participate in an interscholastic athletic activity to appoint or approve a concussion oversight team, which is required to establish a return-to-play protocol for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion.

Sets forth the composition of the concussion oversight team and provides certain considerations and requirements regarding its membership.

Prohibits a student from participating in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with the legal authority to make medical decisions for the student have signed a form, approved by the University Interscholastic League, for the school year that acknowledges receiving and reading written information that explains certain information regarding concussions and that includes guidelines for safely resuming participation in an athletic activity following a concussion.

Requires a student to be immediately removed from an interscholastic practice or competition if a coach, a physician, a licensed health care professional, or the student's parent or guardian or another person with legal authority to make medical decisions for the student believes the student might have sustained a concussion during practice or competition.

Prohibits a student removed from interscholastic athletics practice or competition from being permitted to practice or compete again following the force or impact believed to have caused the concussion until the student has been evaluated, using certain established medical protocols, by a treating physician chosen by the student or the student's parent or guardian or another person with the legal authority to make medical decisions for the student; the student has successfully completed each requirement of the established return-to-play protocol necessary for the student to return to play; the treating physician has provided a written statement indicating that in the physician's professional judgment, it is safe for the student to return to play; and the student and the student's parent or guardian or another person with the legal authority to make medical decisions for the student have met certain requirements.

Prohibits a coach of an interscholastic athletics team from authorizing a student's return to play.

Requires the school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, the person who serves the function of superintendent or that person's designee to supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol, prohibiting the person who has supervisory responsibilities from being a coach of an interscholastic athletics team.

Requires the University Interscholastic League to approve for coaches of interscholastic athletic activities training courses that provide for not less than two hours of training in subject matter relating to concussions and maintain an updated list of individuals and organizations authorized by the league to provide the training.

Requires the Department of State Health Services Advisory Board of Athletic Trainers to approve for athletic trainers training courses in the subject matter of concussions and maintain an updated list of individuals and organizations authorized by the board to provide the training.

Requires certain persons to take a training course from an authorized training provider at least once every two years and sets forth requirements related to which training courses those persons are required to take, the date by which the training courses must initially be completed, and the submission of proof of timely completion of an approved course to the appropriate persons.

Requires a physician who serves as a member of a concussion oversight team, to the greatest extent practicable, to periodically take an appropriate continuing medical education course in the subject matter of concussions.

Prohibits a licensed health care professional who is not in compliance with the training requirements from serving on a concussion oversight team in any capacity.

Provides that Subchapter D, Chapter 38, Health and Safety Code, does not waive any immunity from liability of a school district or open-enrollment charter school or of district or charter school officers or employees; create any liability for a cause of action against a school district or open-enrollment charter school or against district or charter school officers or employees; waive any immunity from liability under Section 74.151 (Liability for Emergency Care), Civil Practices and Remedies Code; or create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Authorizes the commissioner of education to adopt rules as necessary to administer the subchapter.

Provides that these provisions apply beginning with the 2011-2012 school year.

Pertussis Information for Parents of Newborns—H.B. 3336

by Representative Coleman—Senate Sponsor: Senator Deuell

In 2009, there were over 3,000 cases of pertussis, also known as "whooping cough," in Texas. Pertussis is a highly contagious disease, and particularly dangerous to newborns who are too young to be immunized against it, making them susceptible to pneumonia, apnea, seizures, encephalitis, and other conditions. Infants often get pertussis from older children or adults. This bill:

Requires a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant to provide the woman and the father of the infant, if possible, or another adult caregiver for the infant, with a resource pamphlet that includes educational information in both English and Spanish on the pertussis disease and the availability of a vaccine to protect against pertussis, including information on the Centers for Disease Control recommendation that parents receive Tdap during the postpartum period to protect newborns from the transmission of pertussis, in addition to existing required information.

Newborn Hearing Screenings—S.B. 229

by Senator Nelson—House Sponsors: Representatives Susan King and Naishtat

Interested parties assert that detecting hearing loss in newborns can help prevent delays in speaking, learning, and other forms of development. Current law requires birthing facilities to offer newborn hearing screening, but limits the requirement to birthing facilities located in counties with a population of more than 50,000, which means that some children may not receive a hearing screening. This bill:

Redefines "birthing facility."

Provides that a midwife who attends the birth of a newborn is not required to offer the newborn's parents a hearing screening for the newborn for the identification of hearing loss, but requires a midwife to refer the parents of the newborn to a birthing facility or a provider that participates in the newborn hearing screening, tracking, and intervention program (program).

Requires a birthing facility that provides newborn hearing screening under the medical assistance program to report the resulting information in a format and within a time frame specified by DSHS.

Requires a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a program to provide the services needed by the child or refer the child to a person who provides such services and provide, with the consent of the child's parent, certain information relating to follow-up care, audiologic testing, and intervention services to DSHS or its designee.

Requires a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who provides services to infants who are diagnosed with hearing loss to provide, with the consent of the infant's parent, certain information relating to follow-up care, audiologic testing, and intervention services to DSHS or its designee.

Requires a hospital that provides services related to the program to use the information management, reporting, and tracking system, which DSHS has provided the hospital with access to, to report, with the consent of the infant's parent, the results of all follow-up services for the infants who do not pass the birth admission screening if the hospital provides follow-up services or the name of the provider or facility where the hospital refers such an infant to DSHS or its designee

Repeals Section 47.002 (Applicability of Chapter), Health and Safety Code.

Disproportionate Representation of Certain Populations—S.B. 501

by Senator West—House Sponsor: Representative Dukes

Certain information suggests that children who are members of certain racial or ethnic minority groups are disproportionately involved in the foster care, special education, juvenile justice, and criminal justice systems. A more comprehensive approach is needed to effectively and efficiently address such disproportionality in those systems. This bill:

Establishes the Interagency Council for Addressing Disproportionality (council) to examine the level of disproportionate involvement of children who are members of a racial or ethnic minority group at each stage in the juvenile justice, child welfare, and mental health systems; examine issues relating to the disproportionate delivery of various educational services to children who are members of certain minority groups in the education system; make certain recommendations regarding those topics; and assist the Health and Human Services Commission (HHSC) in eliminating health and health access disparities in Texas among racial, multicultural, disadvantaged, ethnic, and regional populations.

Sets forth provisions relating to the composition of the council, the presiding officer, a training requirement, meetings, and reimbursement for expenses.

Sets forth the duties of the council, including reviewing the delivery of certain services to evaluate the disproportionate rates of use or the disproportionate delivery of services to certain minority groups; reviewing funds appropriated to address such disproportionality; reviewing current best practices addressing such disproportionality; examining the qualifications and training of children's service providers; recommending methods to improve use of available public and private funds to address such disproportionality; providing information concerning identified unmet children's services needs and providing related recommendations; examining outcomes for children who are members of certain minority groups who have exited or will exit certain systems; recommending certain administrative and legislative action to address the issues; and preparing a report of the council's findings and recommendations and the presentation of an implementation plan to address such disproportionate representation by certain groups.

Requires the council to consult with certain entities to perform additional duties, including investigating and reporting on issues related to health and health access disparities among certain populations; developing strategies to eliminate such disparities among certain populations; monitoring the progress of each health and human services

agency in eliminating such disparities; and advising each health and human services agency on the implementation of any targeted programs or funding authorized by the legislature to address such disparities.

Requires the council, not later than December 1, 2012, to prepare and submit to the appropriate persons and entities a report containing the council's finding and recommendations for addressing the disproportionate representation of children who are members of certain minority groups in the use of children's services and the council's recommendations as to whether to continue the council.

Provides that the chapter of the Human Resources Code that relates to the council expires December 1, 2013.

Requires the executive commissioner of HHSC to maintain a center for elimination of disproportionality and disparities, rather than an office for the elimination of health disparities, in HHSC to perform certain duties.

Repeals Chapter 107 (Health Disparities Task Force), Health and Safety Code.

Council on Children and Families—S.B. 717

by Senators Harris and Van de Putte—House Sponsors: Representatives Truitt and Naishtat

S.B. 1646, 81st Legislature, Regular Session, 2009, established the Council on Children and Families (council), to coordinate state service systems to ensure that children and families have access to needed services; improve coordination and efficiency in state agencies, advisory councils on issues affecting children, and local levels of service; prioritize and mobilize resources for children; and facilitate an integrated approach to providing services for children and youth. The 81st Legislature charged the Senate Committee on Jurisprudence with studying and making recommendations to promote and enable confidential information sharing among state agencies and courts serving at-risk children and youth to ensure that comprehensive and appropriate services are being provided. This bill:

Adds an additional purpose to the council, which is to promote the sharing of information regarding children and their families among state agencies.

Adds an additional duty for the council, which is to identify technological methods to ensure the efficient and timely transfer of information among state agencies providing health, education, and human services to children and their families.

Privacy of Protected Health Information—H.B. 300

by Representatives Kolkhorst and Naishtat—Senate Sponsor: Senator Nelson

The advancement of health information technology presents new challenges in maintaining the privacy of sensitive health information of patients, requiring additional safeguards to be implemented. State and federal laws, safeguards, and guidelines are in place, such as the privacy requirements in the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) (HIPAA), but such protections can be expanded. This bill:

Defines “disclose” and redefines “Health Insurance Portability and Accountability Act and Privacy Standards.”

Requires a covered entity, as appropriately defined by statute, to comply with Health Insurance Portability and Accountability Act and Privacy Standards (HIPAA and privacy standards); Chapter 181 (Medical Records Privacy), Health and Safety Code; and certain adopted standards.

Provides certain required and authorized duties of the executive commissioner of HHSC related to administration of Chapter 181, Health and Safety Code, and to HIPAA and privacy standards.

Provides that Chapter 181, Health and Safety Code, does not apply to any person or entity in connection with providing, administering, supporting, or coordinating any of the benefits regarding crime victims compensation.

Requires each covered entity to provide a training program to its employees regarding state and federal law concerning protected health information as it relates to the covered entity's business and each employee's scope of employment, and sets forth other requirements relating to such training.

Sets forth a date, with certain exceptions, by which a health care provider who receives a request from a person for his or her electronic health record and who is using an appropriate electronic health records system must provide the requested record to the person in electronic form unless the person agrees to another form of the record; and authorizes the executive commissioner, in consultation with other state agencies, by rule to recommend a standard electronic format for the release of requested health records, which, if feasible, must be consistent with federal law regarding the release of electronic health records.

Requires the attorney general to maintain an Internet website that provides information relating to consumer privacy rights regarding protected health information, the state agencies that regulate covered entities and the types of entities, each agency's complaint enforcement process, and certain contact information for reporting a violation of medical records privacy laws.

Requires the attorney general to annually submit a report to the legislature describing certain consumer complaints received by the attorney general and by the state agencies and the enforcement action taken in response to a reported complaint; and requires each state agency that receives such consumer complaints to submit to the attorney general information required to compile the report.

Prohibits a covered entity from disclosing an individual's protected health information to any other person in exchange for direct or indirect remuneration, with certain exceptions.

Requires a covered entity to provide notice to an individual for whom the covered entity creates or receives protected health information if such information is subject to electronic disclosure, and sets forth authorized methods by which a covered entity may provide such general notice.

Prohibits a covered entity from electronically disclosing an individual's protected health information without a separate authorization from the individual or the individual's legally authorized representative for each disclosure, with certain exceptions.

Provides certain considerations, certain monetary limitations, and certain descriptions for certain civil penalties assessed for violations of Chapter 181 (Medical Records Privacy), Health and Safety Code.

Authorizes the attorney general to institute an action against a covered entity that is licensed by a state licensing agency for a civil penalty only if the licensing agency refers the violation to the attorney general.

Modifies disciplinary action to correspond to violation of Chapter 181, Health and Safety Code, by a covered entity, rather than an individual or facility, that is licensed by a state agency and is subject to investigation and disciplinary proceedings, authorizing the agency to revoke the covered entity's license or refer the covered entity's case to the attorney general for the institution of an action for civil penalties if there is evidence that the violations are egregious and constitute a pattern or practice; and provides certain factors that a court or state agency is to consider in determining the amount of a penalty imposed.

Authorizes HHSC, in coordination with the attorney general, the Texas Health Services Authority (THSA), and the Texas Department of Insurance (TDI), to request that the United States secretary of health and human services conduct an audit of a covered entity to determine HIPAA and privacy standards compliance, and to periodically monitor and review audit results.

Authorizes HHSC, if HHSC has evidence that a covered entity has committed violations of Chapter 181, Health and Safety Code, that are egregious and constitute a pattern or practice, to require a covered entity to submit to HHSC the results of a risk analysis conducted by the covered entity if required by federal law, or, if the covered entity is licensed by a state agency, to request that the licensing agency conduct a study of the covered entity's system to determine compliance with certain provisions; and requires HHSC to annually submit a report to certain legislative committees regarding the audits.

Requires HHSC and TDI, in consultation with THSA, to apply for and pursue available federal funding for enforcement of Chapter 181, Health and Safety Code.

Requires THSA to develop and submit to HHSC for ratification privacy and security standards for the electronic sharing of protected health information, and requires HHSC to review and by rule adopt acceptable standards submitted for ratification.

Requires THSA to establish a process by which a covered entity may apply for certification by THSA of a covered entity's past compliance with adopted standards.

Provides that the requirements relating to requiring a person who conducts business in Texas and owns or licenses computerized data that includes sensitive personal information to disclose any breach of system security to any individual whose information was, or is reasonably believed to have been, acquired by an unauthorized person apply only if such an individual is a Texas resident or a resident of a state that does not require such notice; and provides that if the individual's state of residence does require such a notice, the notice of the breach of system security provided under that state's law satisfies the requirement.

Sets forth certain provisions regarding civil penalties for a person who fails to take reasonable action to comply with the required breach of system security notice.

Provides an exception to the provision that a person commits a Class B misdemeanor if the person uses a scanning device or re-encoder to access, read, scan, store, or transfer information encoded on the magnetic strip of a payment

card without the consent of an authorized user and with the intent to harm or defraud another to provide that the offense is a state jail felony if the information is protected health information.

Requires HHSC, in consultation with DSHS, the Texas Medical Board (TMB), and TDI, to explore and evaluate new developments in safeguarding protected health information, and requires HHSC, not later than December 1 of each year, to submit a report to the legislature on such new developments and recommendations for implementing such safeguards within HHSC.

Defines "unsustainable covered entity."

Requires HHSC, in consultation with THSA and TMB, to review issues regarding the security and accessibility of protected health information maintained by an unsustainable covered entity, and requires HHSC to submit, not later than December 1, 2012, to certain legislative committees certain recommendations regarding those topics.

Creates a task force on health information technology to develop recommendations regarding the improvement of informed consent protocols for the electronic exchange of protected health information, the improvement of patient access to and use of electronically maintained and disclosed protected health information, and any other critical issues; and sets forth the composition of the task force and a report requirement.

Repeals Section 531.0315(b) (relating to providing that this section does not prohibit a state agency from seeking a federal waiver from compliance under applicable federal law), Government Code.

Reporting on Implementing Federal Health Care Law—H.B. 335 [Vetoed]

By Representative Shelton et al.—Senate Sponsor: Senator Birdwell

The federal Patient Protection and Affordable Care Act of 2010 will implement several changes to health care, including but not limited to, Medicaid eligibility expansion, health insurance exchange creation, basic health insurance coverage requirements for certain individuals, and certain provisions affecting employers. Concerns have been raised about the impact and cost that federal health care reform will have on the state, employers, and individuals. This bill:

Requires a state agency to submit a report to the Legislative Budget Board (LBB), the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing legislative committees that cites the specific federal statute or regulation that requires the state to implement the provision; states whether the provision requires or allows a state waiver or option; describes the state action required to implement the provision; identifies the individuals, legal entities, and state agencies that may be impacted by the implementation of or refusal to implement the provision; and estimates the cost to be incurred by the state to implement the provision.

Requires a state agency to submit such a report of an expenditure incurred in implementing a provision of a federal health care reform law if the provision requires a person to purchase health insurance or similar health coverage; requires an employer to provide health insurance or similar health coverage to or for employees; imposes a penalty on an employer who does not provide health insurance or similar health coverage to or for employees; expands eligibility for the state Medicaid program or state child health plan program; creates a health insurance coverage mandate affecting a person; or creates a new health insurance or similar health coverage program that is administered by this state or a political subdivision of this state; or LBB, in the exercise of its duties, determines that a report about the expenditure is necessary to a comprehensive and continuing review of a program or operation of a state agency.

Identity Verification of Benefits Applicants—H.B. 710

by Representative Walle et al.—Senate Sponsor: Senator Deuell

Electronic fingerprint-imaging or photo-imaging is required for a person who applies for and receives benefits under the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program (SNAP) to assist in preventing welfare fraud. Several state and national studies have found that fingerprint-imaging for identify verification in SNAP is not cost-effective in preventing such fraud. Fingerprint-imaging verification requires a person to visit a local benefits office, negatively impacting efforts to improve efficiency in the benefits eligibility system. This bill:

Requires HHSC to use appropriate technology, rather than fingerprint-imaging or photo-imaging, to confirm the identity of applicants for benefits under the financial assistance program and under the supplemental nutrition assistance program and prevent duplicate participation in each respective program by a person.

Repeals provisions related to the electronic imaging program, the intent of which was to prevent welfare fraud by using electronic fingerprint-imaging or photo-imaging of adult and teen parent applicants for and adult and teen parent recipients of certain assistance programs.

Person First Respectful Language Initiative—H.B. 1481

by Representative Truitt et al.—Senate Sponsor: Senator Zaffirini

Although the term "retarded," its variants, and certain other references to persons with disabilities are used in medical diagnoses and in legal language, many find the terms to be demeaning and offensive because they are often used to describe a person or a person's character. The use of the terms in reference to persons with disabilities shape and reflect society's attitudes toward persons with disabilities and can create an invisible barrier to inclusion of persons with disabilities as equal community members. Many entities are choosing to utilize phrasing that places the person before the disability. This bill:

Directs the legislature and the Texas Legislative Council (TLC) to avoid using the following terms and phrases in any new statute or resolution and to change those terms and phrases used in any existing statute or resolution as sections including those terms and phrases are otherwise amended by law: "disabled," "developmentally disabled," "mentally disabled," "mentally ill," "mentally retarded," "handicapped," "cripple," and "crippled."

Directs the legislature and TLC, in enacting or revising statutes or resolutions, to replace, as appropriate, the above-mentioned terms and phrases with the following person first respectful language preferred phrases or appropriate variations of those phrases: "persons with disabilities," "persons with developmental disabilities," "persons with mental illness," and "persons with intellectual disabilities."

Provides that a statute or resolution is not invalid solely because it does not employ the preferred phrases.

Requires the Sunset Advisory Commission (sunset commission), as part of its review of a health and human services agency, to consider and make recommendations regarding the statutory revisions necessary to use the phrase "intellectual disability" instead of "mental retardation" and to use the phrase "person with intellectual disability" instead of "person with mental retardation."

Requires the sunset commission, as part of its review of an agency, to consider and recommend, as appropriate, statutory revisions in accordance with the person first respectful language initiative.

Requires the executive commissioner of the HHSC to ensure that HHSC and each health and human services agency use the above-mentioned terms and phrases listed as preferred under the person first respectful language

initiative when proposing, adopting, or amending HHSC's or the agency's rules, reference materials, publications, and electronic media.

Requires the commissioner of education to ensure that the Texas Education Agency (TEA) uses the above-mentioned terms and phrases listed under the person first respectful language initiative when proposing, adopting, or amending TEA's rules, reference materials, publications, and electronic media.

Defines "intellectual disability" and "person with intellectual disability," and redefines "mental retardation" and "person with mental retardation" in the Health and Safety Code.

Provides that it is not the intent of the legislature that changes in law made by these provisions affect the application or interpretation of the Penal Code or eligibility for any program.

Emergency Detention Application and Transfer—H.B. 1829

by Representative Naishtat—Senate Sponsor: Senator Nelson

Current law authorizes an adult to file a written application for the emergency detention of another person. The law also provides that a person may be admitted to a facility for emergency detention only if the physician who conducted the preliminary examination of the person makes a written statement meeting certain conditions and that a mental health facility that has admitted a person for such emergency detention may transport the person to a mental health facility deemed suitable by the local mental health authority for the area. This bill:

Authorizes a judge or magistrate to permit an applicant who is a physician to present an application for emergency detention by certain means, including by e-mail with the application attached as a secure document in a portable document format (PDF), and authorizes the judge or magistrate, after the presentation of such an application, to transmit a warrant to the applicant electronically, if a digital signature is transmitted with the document or by email with the warrant attached as a secure document in a PDF, if the identifiable legal signature of the judge or magistrate is transmitted with the document.

Authorizes a facility that has admitted a person for emergency detention under Section 573.022(a) (relating to authorizing a person to be admitted to a facility for emergency detention in a certain circumstance), Health and Safety Code, or to which a person has been transported under Section 573.022(b) (relating to authorizing a mental health facility to transport the admitted person), Health and Safety Code, to transfer the person to an appropriate mental hospital with the written consent of the hospital administrator.

Expansion of Faith-Based and Community-Based Initiatives—H.B. 1965

by Representative Kolkhorst et al.—Senate Sponsor: Senator Deuell

HHSC established the Task Force on Strengthening Nonprofit Capacity, as directed by H.B. 492, 81st Legislature, Regular Session, 2009, (relating to the expansion of faith-and community-based health and human services and social services initiatives), which made recommendations to the Texas Legislature for strengthening the capacity of faith-based and community-based organizations (FCBOs) and facilitating collaboration between nonprofit entities and state organizations. Some of those recommendations related to the duties and composition of the interagency coordinating group established by the legislation and the establishment of a task force to assist the interagency coordinating group. This bill:

Adds additional state agencies to the list of agencies whose chief administrative officer, in consultation with the governor, is required to designate one employee from the agency to serve as a liaison for FCBOs.

Requires the commissioner of higher education, in consultation with the presiding officer of the interagency coordinating group, to designate one employee from an institution of higher of education to serve as a liaison for FCBOs.

Provides that the liaison from the State Commission on National and Community Services (state commission) is the presiding officer of the interagency coordinating group, and provides that, if that state commission is abolished, the liaison from the governor's office is the presiding officer of the interagency coordinating group.

Modifies reporting requirements to require the interagency coordinating group, not later than December 1 of each year, to submit a report to the legislature that describes in detail the activities, goals, and progress of the interagency coordinating group, and requires the report to be made available to the public on the office of the governor's Internet website.

Establishes the interagency coordinating group task force (task force) to help direct the interagency coordinating group in carrying out the group's duties and requires HHSC to provide administrative support to the task force.

Requires the executive commissioner of HHSC, in consultation with the presiding officer of the interagency coordinating group, not later than October 1, 2011, to appoint as members of the task force one representative from each of certain groups and entities.

Requires the interagency coordinating group, in coordination with task force, to develop and implement a plan for improving contracting relationships between state agencies and FCBOs; develop best practices for cooperating and collaborating with FCBOs; identify and address duplication of services provided by the state and FCBOs; and identify and address gaps in state services that FCBOs could fill.

Requires the task force to prepare a report to present, not later than September 1, 2012, to certain legislative committees, describing certain actions by the interagency coordinating group and including any recommendations relating to legislation necessary to address an issue identified by the group.

Provides that the section relating to the task force expires September 1, 2013.

Vital Statistics Information to State Registrar—H.B. 2061

by Representative Pena et al.—Senate Sponsor: Senator Nelson

Current law requires, on the state registrar's demand, a physician, midwife, or funeral director who has information relating to birth, death, or fetal death to supply that information in person, by mail, or through the local registrar. There is a concern that current law does not address the issue of updating voter information by purging voter rolls of deceased individuals. This bill:

Adds the local registrar to the list of persons required, on the state registrar's demand, to supply information relating to a birth, death, or fetal death to the state registrar in person, by mail, or through the local registrar.

Requires the person to supply the information on a form provided by the Texas Department of State Health Services or on the original certificate.

Spindletop MHMR Services Exchange of Certain Property—H.B. 2258

by Representative Deshotel—Senate Sponsor: Senator Williams

Recent legislation authorized the transfer of real property from HHSC, DSHS, or the Department of Aging and Disability Services (DADS) to Spindletop Mental Health and Mental Retardation Services to be used in a manner that primarily promotes a public purpose of the state by using the property to provide community-based mental health or mental retardation services. This bill:

Requires consideration for the transfer that was authorized for not later than May 31, 2008, of certain real property from HHSC, DSHS, or DADS, as appropriate, to Spindletop MHMR Services be in the form of an agreement between the parties that requires Spindletop MHMR Services to use the property in a manner that primarily promotes a certain public purpose of the state and that an agreement that is amended or supplemented by addendum under the following provisions to authorize a transfer or lease of the property must be executed by the parties and recorded in the real property records of Jefferson County, Texas.

Authorizes the parties, after a transfer of real property takes effect, to by addendum amend or supplement the agreement to authorize in exchange for payment of the fair market value of the property or of any portion of the property to be transferred under this subdivision, as determined by an independent appraiser, a transfer of the property or portion of the property, in one or more transactions, to an entity or organization that is listed under Section 501(c)(3), Internal Revenue Code of 1986; is exempt from federal income taxation; and primarily provides health care services.

Authorizes the parties, after a transfer of real property takes effect, to by addendum amend or supplement the agreement to authorize in exchange for payment of the fair market lease value of the property or of any portion of the property to be leased under this subdivision, as determined by an independent appraiser, a lease of the property or portion of the property in one or more transactions.

Provides that if the lease described is for a term of 20 years or more, Spindletop MHMR Services may lease the property only to an entity or organization that is listed under 501(c)(3), Internal Revenue Code; is exempt from federal income taxation; and primarily provides health care services.

Requires Spindletop MHMR Services to retain a payment resulting from a transaction and use the money only in a manner that primarily promotes a public purpose of the state by providing community-based physical health, health-related, mental health, or mental retardation services.

Requires that a conveyance of property under either of the two exchanges described above to an entity or organization be conditioned on an obligation that the property be used in a manner that primarily promotes a public purpose of the state by providing community-based physical health, health-related, mental health, or mental retardation services.

Requires that the conveyance provide that ownership of the property automatically revert to the state on the date that the entity or organization fails to use the property in a manner that primarily promotes a certain stated public purpose of the state.

Community-Based Navigator Facilitation—H.B. 2610

by Representative Guillen et al.—Senate Sponsor: Senator Deuell

HHSC is currently in the process of implementing the Texas Integrated Eligibility Redesign System (TIERS), an online eligibility system that allows a person to electronically submit an application for certain public benefit programs. Certain persons, such as those from faith-based and community-based organizations (FCBOs), may be beneficial in

providing assistance to applicants by guiding the applicant through the online application process, but require proper training in order to do so. This bill:

Defines "navigator."

Requires HHSC, if the executive commissioner of HHSC determines that a statewide community-based navigator program can be established and operated using existing resources and without disrupting other HHSC functions, to establish, not later than September 1, 2012, a statewide community-based navigator program through which HHSC will train and certify as navigators volunteers and other representative FCBOs to assist individuals applying or seeking to apply online for public assistance benefits through TIERS or any other electronic eligibility system that is linked to or made a part of that system.

Requires HHSC, in establishing the navigator program, to solicit the expertise and assistance of interested persons, and authorizes HHSC to establish a work group or other temporary, informal group of interested persons to provide input and assistance.

Requires the executive commissioner of HHSC to adopt standards to implement the provision, and provides certain standards to include.

Requires HHSC to develop and administer a training program for navigators and sets forth the training content that the program must include.

Requires HHSC to maintain and publish on its website a list of certified navigators.

Defines "advisory committee," which means the Promotora and Community Health Worker Training and Certification Advisory Committee (committee).

Requires DSHS, in establishing the program designed to train and educate persons who act as promotoras or community health workers, to the extent possible, to consider the applicable recommendations of the committee, rather than to consider the report and any findings of and implement any applicable recommendations of the Promotora Program Development Committee.

Authorizes the executive commissioner of HHSC to adopt rules to exempt from mandatory training a promotora or community health worker who has served for a certain extent of time.

Requires the executive commissioner of HHSC, in establishing the certification program for persons who act as promotoras or community health workers, to adopt rules that provide minimum standards and guidelines, and, in adopting those standards and guidelines, to consider applicable recommendations of the committee.

Requires DSHS, not later than December 31, 2011, to establish the committee composed of representatives from relevant entities appointed by the commissioner of DSHS (commissioner).

Requires the committee to advise DSHS and HHSC on the implementation of standards, guidelines, and requirements relating to the training and regulation of promotoras and community health workers; advise DSHS on matters related to the employment and funding of promotoras and community health workers; and provide DSHS with recommendations for a sustainable program for promotoras and community health workers.

Requires DSHS, in coordination with HHSC, to study certain aspects of employing promotoras and community health workers to provide publicly and privately funded health care services; explore methods of funding and reimbursing promotoras and community health workers and the costs; and develop certain recommendations.

Requires DSHS, in conducting the study, to consult with certain entities, and to assess the impact of promotoras and community health workers on increasing the efficiency of, quality of, and access to health care services.

Requires DSHS, on or before December 1, 2012, to submit to the legislature a report regarding the findings of the study.

Medicaid Payor of Last Resort—H.B. 2722

by Representative Perry—Senate Sponsor: Senator Duncan

Under federal law, the Medicaid program is intended to be the payor of last resort, which means that all available third party resources must meet their legal obligation to pay claims before the Medicaid program pays for the care of an eligible individual. This bill:

Requires the executive commissioner of HHSC to adopt rules to ensure, to the extent allowed by federal law, that the Medicaid program is the payor of last resort; and provides reimbursement for services, including long-term care services, only if, and to the extent that, other adequate public or private sources of payment are not available.

SNAP Eligibility Determination Process Efficiency—H.B. 2819

by Representatives Susan King and Naishtat—Senate Sponsor: Senator Nelson

HHSC determines eligibility for Texas residents who apply for benefits under SNAP, commonly referred to as the food stamp program. In 2010, the State Auditor's Office issued an audit report on HHSC's SNAP, discussing inefficiencies and other issues related to SNAP's eligibility determination process and management of SNAP and the HHSC SNAP workforce. This bill:

Defines "commission" and "supplemental nutrition assistance program."

Requires HHSC to develop procedures to ensure that clear guidance on program eligibility requirements is provided to SNAP applicants and prospective applicants and mechanisms are established, as appropriate, by which applicants can obtain answers to basic program-related questions; and information is provided to each applicant through certain methods, as appropriate, about information the applicant is required to submit for the eligibility determination process.

Requires HHSC to consider the feasibility and cost-effectiveness of using office personnel or an automated system or systems to support the eligibility determination process by contacting an applicant prior to the applicant's scheduled interview the applicant of the interview and needed documentation.

Requires HHSC to consider the feasibility and cost-effectiveness of using readily available document scanning technology to reduce certain costs and potential loss of data by creating electronic case files for SNAP cases instead of maintaining physical files, and requires HHSC to use that technology if determined feasible and cost-effective.

Requires HHSC to implement, if feasible and cost-effective, a risk scoring program for SNAP applications to streamline the eligibility determination process, reduce errors, and strengthen fraud detections, and provides a requirement as to the capability of the risk-scoring program to rank applications based on complexity and the capability's purposes.

Requires HHSC to improve its management of SNAP eligibility determination staff and sets forth methods for doing so.

Requires HHSC, in conjunction with state, regional, and local eligibility determination offices, to identify eligibility determination program performance indicators with respect to which data should be periodically collected, and requires HHSC to implement a process for collecting data on the identified indicators.

Requires HHSC to provide periodic management reports generated by the automated eligibility system to eligibility determination offices, and provides that the reports must include certain information regarding pending applications and those applications not processed within applicable timeliness standards.

Requires HHSC to use data collected and the reports to develop and assess strategies for streamlining the eligibility determination process, improving timeliness of determinations, and accommodating increases in applications received.

Requires that, to the extent available for this purpose, HHSC use supplemental federal funding provided for the administration of SNAP to implement these provisions.

Glenda Dawson Donate Life-Texas Registry—H.B. 2904

by Representative Zerwas—Senate Sponsor: Senator Zaffirini

Section 692A.020, Health and Safety Code, requires DSHS to affiliate with an entity to promote the Glenda Dawson Donate Life-Texas Registry; requires DSHS, in consultation with other entities to establish the registry; and requires DSHS to enter into an agreement with an organization appropriately selected to establish and maintain a statewide Internet-based registry of organ, tissue, and eye donors. Some organ registries are run by federally certified organ procurement organizations, rather than by state governments. This bill:

Abolishes the Glenda Dawson Donate Life-Texas Registry as it existed immediately before January 1, 2012.

Requires DSHS, not later than January 1, 2012, to contract with a nonprofit organization to maintain a statewide donor registry (organization), to be known as the Glenda Dawson Donate Life-Texas Registry (registry).

Sets forth the representatives that must be included in the organization, and requires the organization to establish and maintain a statewide Internet-based registry of organ, tissue, and eye donors.

Requires the Department of Public Safety of the State of Texas (DPS), at least monthly, to electronically transfer to the organization certain information DPS possesses from any person who indicates on his or her driver's license application that he or she would like to make an anatomical gift.

Sets forth certain requirements regarding information obtained by DPS and the Internet-based registry that must be included in the contract between DSHS and the organization.

Prohibits, except as otherwise provided, DPS, the organization, or a procurement organization from selling, renting, or otherwise sharing any information provided to the Internet-based registry, and prohibits those entities from using certain data provided to the Internet-based registry for any fund-raising activities.

Requires DPS to make available to certain entities educational materials developed by the organization.

Requires certain money remitted to the comptroller by the DPS and a county assessor-collector to be disbursed to the organization under the terms of the contract between DSHS and the organization to pay certain costs.

Requires DSHS to require the organization to submit an annual report to DSHS, which is to include existing reporting requirements, as well as an accounting for the use of the money disbursed for the administration of the registry.

Authorizes DSHS, to the extent funds are available and as a part of the program, to allocate funds to the organization pursuant to the contract to educate residents about anatomical gifts.

Requires DSHS to solicit broad-based input reflecting recommendations of all interested groups in contracting for the registry program.

Authorizes DSHS to require the organization to implement a training program for certain state agency employees on the benefits of organ, tissue, and eye donation and procedures to add individuals to the Internet-based registry; and conduct such training on an ongoing basis for new employees.

Authorizes DSHS to require the organization to develop a program to educate health care providers and attorneys about anatomical gifts, and requires DSHS to require the organization to encourage certain entities to undertake certain actions relating to organ donation education and information.

Prohibits the organization from charging any fee for certain costs related to the registry, except as otherwise provided, or using the registry to solicit voluntary donations of money from a registrant, but authorizes the organization to accept voluntary donations and perform fund-raising on behalf of the registry for specific purposes.

Changes reference to the Glenda Dawson Donate Life-Texas Registry for which a county assessor or DPS collects an additional fee of \$1 for the registration or renewal of registration of a motor vehicle, for the issuance or renewal of a driver's license, or for the issuance or renewal of a personal identification card, as corresponding to the appropriate entity and action, to pay the costs of if the person registering, applying, renewing, or changing such a registration, license, or identification card, as appropriate, opts to pay the additional fee.

Requires DPS, with input from the organization, to provide to each applicant for a driver's license or personal identification certificate the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift in the event of death, and an opportunity for the person to consent to inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and release to procurement organizations; and provides a manner for removing oneself from the registry.

Requires DPS to specifically ask each applicant only the question, "Would you like to register as an organ donor," and, if the applicant responds affirmatively, to provide certain identifying information to the organization for inclusion in the registry.

Repeals Chapter 113 (Texas Organ, Tissue, and Eye Donor Council), Health and Safety Code, and repeals Section 49.002(m) (relating to a training program for DPS and TxDOT employees on the benefits of organ, tissue, and eye donation and other information), Health and Safety Code, as amended by Chapter 831, Acts of the 81st Legislature, Regular Session, 2009.

Provides for the transfer of information, finance-related aspects, and certain other aspects from the Texas Organ, Tissue, Eye Donor Council, and the Glenda Dawson Donate Life-Texas Registry as it existed immediately before January 1, 2012, to DSHS.

Consent to Treatment for Chemical Dependency—H.B. 3146

by Representative Naishtat—Senate Sponsor: Senator Zaffirini

Consent given by a patient or by an authorized person who consents on the patient's behalf for the administration of a medication, therapy, or treatment is valid only if the consent is given voluntarily and without coercive or undue influence; before administration of the medication, therapy, or treatment, the treating physician explains certain information in a simple manner; and the informed consent is evidenced in the patient's clinical record in an

appropriate manner. Statute provides for certain hours of in-service training for individuals conducting intake and assessments for a treatment facility. This bill:

Authorizes additional persons, including a psychologist, social worker, professional counselor, or chemical dependency counselor, to explain to patients and to the persons giving consent, in simple, nontechnical language certain information before the administration of therapy or treatment, which is one of the conditions that validates consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf for the administration of therapy or treatment.

Provides that informed consent is evidenced in the patient's clinical record by a signed form prescribed by DSHS or by a statement of a certain person, including the psychologist, social worker, professional counselor, or chemical dependency counselor, who appropriately obtained the consent that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained, as a condition of validating certain consent to medication, therapy, or treatment.

Provides that if certain persons, including a psychologist, social worker, professional counselor, or chemical dependency counselor, obtain new information relating to a therapy or treatment for which consent was previously obtained, that person must explain the new information and obtain new consent.

Expands the rules governing the voluntary admission of a patient to a treatment facility that DSHS must adopt to include rules governing screening procedures of the admission process.

Requires that the rules governing the screening process establish minimum standards for determining whether a prospective patient presents sufficient signs, symptoms, or behaviors indicating a potential chemical dependency disorder to warrant a more in-depth assessment by a qualified professional; and requires the screening to be reviewed and approved by a qualified professional.

Requires a treatment facility, in accordance with DSHS rules, to provide annually a minimum of two hours, rather than eight hours, of in-service training regarding intake and screening, rather than intake and assessment, for persons who will be conducting an intake or screening, rather than an assessment, for the facility.

Prohibits a person from conducting an intake or screening without having completed the initial applicable annual inservice training.

Defines "screening" and redefines "assessment."

Culture Change Pilot Program—H.B. 3197

by Representative Coleman—Senate Sponsor: Senator Deuell

Issues regarding quality of care, allegations of abuse and neglect, and staff shortages have been prevalent in Texas's state supported living centers (SSLCs). The LBB report, "Transform State Residential Services Persons with Intellectual and Developmental Disabilities," recommended implementing the culture change model of care at one state supported living center to work towards improving quality of care at SSLCs. Although implementation of culture change varies, the objectives of the culture change model of care are to change an institution's culture to provide person-centered care, establish a stable and qualified workforce, and use continuous quality improvement processes in an overall effort to focus on each resident's needs and values. This bill:

Requires the executive commissioner of HHSC to create a pilot program to implement the culture change model of care at one SSLC.

Requires DADS, in implementing the pilot program, to the extent possible, to implement processes, policies, and practices designed to shift decision-making to the individual with the disability; implement continuous quality improvement processes that use objective data to improve practices and services; and improve the workforce.

Requires DADS to select the SSLC that is most representative of the SSLC system to participate in the pilot program based on certain considerations and determine the size and scope of the pilot program within the selected SSLC.

Authorizes DADS to hire a consultant with a proven record of implementing the culture change process in long-term care facilities serving persons with mental and physical disabilities to assist in the implementation of the pilot program.

Requires DADS to enter into a memorandum of understanding with the Texas Long Term Care Institute at Texas State University (institute) for the institute to assist DADS by providing training, assessment, technical assistance, and assistance in other areas that will enable DADS to implement the culture change model of care at one state SSLC and to include an institute representative in meetings with parent groups and legally authorized representatives of the residents to educate these groups about culture change and the purpose of culture change.

Sets forth certain required activities to assist in informing and educating staff, volunteers, parents, and others on topics relating to culture change.

Requires DADS to submit a report to the governor and the LBB on the pilot program not later than September 1, 2012, and sets forth the content to be included.

Requires DADS to file a quarterly report with the LBB for each SSLC that includes the number of allegations of abuse, neglect, or exploitation that the Department of Family and Protective Services determines to be unfounded and the number DADS determines to be confirmed.

Provides that this Act expires September 1, 2013.

Elimination and Reduction of Reports Required of Health and Human Services Agencies—S.B. 71

by Senator Nelson—House Sponsor: Representative Raymond

A review by the Texas State Library and Archives Commission, health and human services agencies, and certain other interested stakeholders of the usefulness and redundancy of reports required of the health and human services agencies identified reports that were obsolete or redundant. This bill:

Eliminates certain reports required of the health and human services agencies and reduces the frequency of certain other reports.

Child and Adult Care Food Program—S.B. 77

by Senator Nelson—House Sponsor: Representative Raymond

The federally funded Child and Adult Care Food Program provides low-cost meals to low-income children and adults in daycare settings. In Texas, such centers and homes may contract with the Texas Department of Agriculture (TDA) or go through a sponsoring organization that will work with TDA to assist the facilities in administering the program, as appropriate or required. This bill:

Entitles TDA to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas (DPS) that relates to a person who is a principal of a nongovernmental entity that is a participant in or an

applicant for participation in the program, and provides certain provisions regarding disclosure of such information obtained by TDA.

Requires a sponsoring organization, to the extent permitted under federal law, to maintain a performance bond in an amount specified by TDA rule from a company holding a certificate of authority as an acceptable surety on federal bonds from the United States secretary of the treasury.

Requires a nongovernmental entity applying to participate or to renew participation in the program as a sponsoring organization or other institution, to the extent permitted under federal law, to submit to TDA a copy of a government-issued form of identification of the principal and proof of the principal's residential mailing address with respect to each of the entity's principals for use in conducting a background and criminal history check. Provides a provision related to a change in a principal or the residential mailing address of a principal of a nongovernmental entity participating in the program as a sponsoring organization or other institution.

Authorizes TDA to conduct a background and criminal history check on each principal of an entity using certain information.

Authorizes TDA, if the authorized background and criminal history check reveals that an entity knowingly falsified statements contained in the application, to refer that matter to an appropriate prosecuting attorney for criminal prosecution.

Provides that, if an authorized background and criminal history check reveals that the principal of entity has been convicted of fraud, violating an antitrust law, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstructing justice, or any other criminal offense that indicates a lack of business integrity as determined by TDA, TDA is required to deny the entity's application for participation in the program or is authorized, at its discretion, to revoke the entity's authority to participate in the program.

Authorizes the commissioner of agriculture by rule to establish procedures that would allow an entity that had its program application denied or whose authority to participate in the program has been revoked to appeal TDA's determination.

Public Health Laboratories—S.B. 80

by Senator Nelson—House Sponsor: Representative Susan King

Texas's three public health laboratories, operated by DSHS, are located in Austin, San Antonio, and Harlingen. These laboratories process newborn screening tests, medical tests, women's clinical tests and sexually transmitted disease screening, public health tests, among other tests. In September 2010, the State Auditor's Office (SAO) issued a report on the public health laboratories that uncovered problems with billing, revenue collections, financial record-keeping, and information security practices at DSHS's public health laboratories. The audit included recommendations to make changes to practice and policy at the public health laboratories relating to these problems. This bill:

Defines "department" and "laboratory."

Provides that it is the legislature's intent that DSHS adopt and implement the recommendations developed by SAO and described in the report, "An Audit Report on the Department of State Health Services' Public Health Laboratories," dated September 2010, and sets forth the actions that DSHS is required to undertake.

Authorizes the executive commissioner of HHSC to adopt rules as necessary to implement the provisions.

Requires DSHS to submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature on DSHS's progress in implementing the provisions not later than September 1, 2012.

Provides that these provisions expire August 31, 2013.

Food Safety—S.B. 81

by Senator Nelson—House Sponsor: Representative Kolkhorst

Certain persons who harvest, package, wash, or ship raw produce are currently exempt from certain DSHS licensing requirements and regulatory authority and, as a result, are not inspected by any state agency. This bill:

Provides that certain persons are not required to hold a license relating to food manufacturers, food wholesalers, or warehouse operators, including a person, firm, or corporation that only harvests, packages, or washes raw fruits or vegetables for shipment at the location of harvest, which is modified from its previous description in statute.

Requires DSHS, in adopting rules related to food manufacturers, food wholesalers, or warehouse operators, to ensure that the minimum standards prioritize safe handling of fruits and vegetables based on known safety risks and consider acceptable produce safety standards developed by a federal agency, state agency, or university.

Requires DSHS to approve food safety best practice education programs for licensed places of business that a food manufacturer, food wholesaler, or warehouse operator operates, provides that a place of business that completes a DSHS-approved food safety best practice education program receives a certificate valid for five years from the date of completion of the program, and requires the appropriate inspecting authority to consider that certificate when determining which places of business to inspect.

Requires DSHS, for any federal regulation adopted as a state rule related to the Texas Food, Drug, and Cosmetic Act, to provide on its Internet website certain information and links.

Redefines "board" and defines "baked good," "cottage food production operation," and "home" in Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors), Health and Safety Code.

Provides that a cottage food production operation is not a food service establishment for purposes of Chapter 437, Health and Safety Code.

Prohibits a local health department from regulating the production of food at a cottage food production operation, and requires each local health department and DSHS to maintain a record of a complaint made by a person against a cottage food production operation.

Requires the executive commissioner of HHSC to adopt rules requiring a cottage food production operation to label all of the baked goods, canned jam or jellies, or a dried herb or herb mix produced for sale at the person's home that the operation sells to consumers. Requires that the label include the name and address of the cottage food production operation and a statement that the food is not inspected by DSHS or a local health department.

Prohibits the cottage food operation from selling any of the above foods through the Internet.

Defines "farmers' market."

Authorizes DSHS or a local health department to issue a temporary food establishment permit to a person who sells food at a farmers' market without certain limitations, and provides that the permit may be valid for up to one year and may be renewed.

Authorizes the executive commissioner of HHSC to adopt temperature requirements for food sold at, prepared on-site at, or transported to or from a farmers' market, and provides that food prepared on-site at a farmers' market may be sold or distributed at the farmers' market only if the food is prepared in compliance with the adopted temperature requirements.

Prohibits the executive commissioner of HHSC or a state or local enforcement agency from mandating a specific method for complying with the adopted temperature control requirements, except that a municipality in which a municipally owned farmers' market is located may adopt rules specifying the method or methods that must be used to comply with the requirements.

Provides that the provisions related to a farmers' market do not apply in a county that has a population of less than 50,000 and over which no local health department has jurisdiction.

Human Body and Anatomical Specimen Donation—S.B. 187

by Senator Nelson—House Sponsor: Representative Zerwas

It has been reported that a truck containing embalmed human heads used for medical training was found on a Texas highway without any written documentation. Currently, there is no adequate provision for written chain-of-custody documentation for the transport of bodies and body parts in Texas. This bill:

Requires the Anatomical Board of the State of Texas (anatomical board), not later than January 1, 2012, to develop a document to inform a person making a gift of a decedent's body or anatomical specimen for purposes of education or research of the risks and benefits associated with such a donation and to make the document available on its Internet website.

Requires the anatomical board, not later than January 1, 2012, to adopt rules to ensure that a label with the statement "CONTENTS DERIVED FROM DONATED HUMAN TISSUE" is affixed to the container in which the body or anatomical specimen received or distributed by the board is transported; and each person who has control or possession of a body or anatomical specimen satisfactorily completes the information required on a chain-of-custody form prescribed by the anatomical board, maintains a copy of the form for the person's record, and transfers the form to any other person to whom control or possession of the body or anatomical specimen is transferred.

Patient Advocacy Activities by Nurses and Certain Other Persons—S.B. 192

by Senator Nelson—House Sponsors: Representatives Donna Howard and Naishtat

Currently, Texas statute provides protections and immunity to nurses under certain circumstances, but the law does not offer such protections to a person who advises a nurse regarding the rights of the nurse as it relates to that conduct. This bill:

Expands protections for certain person to include prohibiting a person from retaliating against a nurse who refuses to engage in certain conduct and prohibiting a person from suspending, terminating, or otherwise disciplining, discriminating against, or retaliating against a person who advises a nurse of the nurse's rights regarding refusal to engage in certain conduct.

Specifies when a report is considered to be made in good faith when referred to in Subchapter I (Reporting Violations and Patient Care Concerns), Chapter 301 (Nurses), Occupations Code.

Prohibits a person from suspending or terminating the employment of, or otherwise disciplining, discriminating against, or retaliating against, a person who reports in good faith relative to provisions for mandatory reports by a nurse or optional reports by a nurse, or advises a nurse of the nurse's rights and obligations for mandatory reports and of the nurse's right to report optional reports, and provides that a violation of any of these prohibitions is subject to Section 301.413 (Retaliatory Action), Occupations Code.

Modifies reporting immunity to state that a person who in good faith makes a required report regarding reporting violations and patient care concerns or a person who advises a nurse of the nurse's right or obligation to report in such situations is immune from civil and criminal liability that, in the absence of the immunity, might result from making the report or giving the advice and may not be subjected to other retaliatory action.

Authorizes a person to file a counterclaim in a pending action or prove a cause of action in a subsequent suit to recover defense costs if certain conditions are met, including if the person is named as a defendant in a civil action or subjected to other retaliatory action as a result of certain actions, including providing advice to a person regarding filing a required or authorized report or one reasonably believed to be so as a result of refusing to engage in certain conduct.

Expands and modifies protections for certain persons to state that a person may not suspend, terminate, or otherwise discipline, discriminate against, or retaliate against a person who reports in good faith certain violations and patient care concerns; requests in good faith a nursing peer review committee determination; refuses to engage in certain conduct; or advises a nurse of the nurse's right to perform certain actions.

Authorizes the reporting of a person suspected of violating the above provision to the appropriate licensing agency, and authorizes that agency to impose an administrative penalty not to exceed \$25,000 against the person, which is in addition to other penalties the agency is authorized to impose and is subject to the procedural requirements applicable to the appropriate licensing agency, if the agency finds that a violation was committed.

Provides that certain persons, including a person who advises a nurse of certain rights of the nurse, have a cause of action against a person who violates certain prohibitions, and may recover certain monetary costs.

Sets forth certain modified conditions regarding a rebuttal presumption that the person was suspended, terminated, or otherwise discriminated against, or retaliated against for certain actions, or for providing advice to a person regarding certain actions.

Redefines "peer review."

Health Care Services Provided by Certain Hospital Districts—S.B. 303

by Senator Nichols—House Sponsor: Representatives Scott and White

Hospital districts may currently adopt procedures to prevent and detect fraud in their indigent care programs. Current law also allows hospital districts to disqualify persons from these programs in cases where fraud appears to exist. This bill:

Provides that a hospital district may recover, from the eligible resident perpetuating a fraud, an amount equal to the value of any fraudulently obtained health care services provided to the eligible resident disqualified.

Provides that after a hospital district pays the providing hospital for the actual cost of service, the district may file a lien on a tort cause of action or claim of an eligible resident who receives health care services for injuries caused by an accident that is attributed to the negligence of another person.

Requires a person who applies for or receives health care services to inform the hospital district of any unsettled tort claim that may affect medical needs; any private accident or health insurance coverage that is or may become available; and any injury that is caused by the act or failure to act of some other person.

Requires an applicant or eligible resident to inform the hospital district of information within 30 days of the date the person learns of the person's insurance coverage, tort claim, or potential cause of action.

Provides that a claim for damages for personal injury does not constitute grounds for denying or discounting services.

Provides that a lien attaches to a tort cause of action for damages arising from an injury for which the injured eligible resident receives health care services; a judgment of a court in this state or the decision of a public agency in a proceeding brought by the eligible resident or by another person entitled to bring the suit in case of the death of the eligible resident to recover tort damages arising from an injury for which the eligible resident receives health care services; and the proceeds of a settlement of a tort cause of action or a tort claim by the eligible resident or another person entitled to make the claim, arising from an injury for which the eligible resident receives health care services.

Provides that, if the eligible resident has health insurance, the providing hospital is obligated to timely bill the applicable health insurer.

Provides that the lien does not attach to a claim under the workers' compensation law of this state, the Federal Employees Liability Act, or the Federal Longshore and Harbor Workers' Compensation Act.

Establishes that a hospital district's lien is for the amount actually paid by the hospital district for services provided to the eligible resident for health care services caused by an accident that is attributed to the negligence of another person.

Requires that a hospital district, to secure the lien, file written notice of the lien with the county clerk of the county in which the services were provided; that the notice be filed and indexed before money is paid by the third-party liability insurer; and that the notice include the injured individual's name and address, date of the accident, name and location of the hospital district, and the name of the person alleged to be liable for the damages arising from the injury.

Requires the county clerk to record the name of the injured individual, the date of the accident, and the name and address of the hospital district and to index the record in the name of the injured individual.

Requires that procedures established by a hospital district for administrative hearings provide for appropriate due process, including procedures for appeals.

Authorizes the board of the Tarrant County Hospital District (TCHD) to appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district.

Prohibits the term of an employment contract from exceeding four years.

Establishes that this legislation may not be construed as authorizing the board of TCHD to supervise or control the practice of medicine.

Requires that the authority granted to the board of TCHD to employ physicians apply as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district.

Requires the medical executive committee of TCHD to adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the physician's independent medical judgment in providing care to patients and lists what the adopted policies must include.

Requires the medical executive committee and the board of TCHD to jointly develop and implement a conflict management process to resolve any conflict between a policy adopted by the medical executive committee and a policy of TCHD.

Requires a member of the medical executive committee who is a physician to provide biennially to the chair of the medical executive committee a signed, verified statement indicating that the member of the medical executive committee is licensed by the Texas Medical Board (TMB); will exercise independent medical judgment; will exercise the committee member's best efforts to ensure compliance with the policies that are adopted or established by the medical executive committee; and will report immediately to TMB any action or event that the committee member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

Requires each physician employed by TCHD, for all matters relating to the practice of medicine, to ultimately report to the chair of the medical executive committee for the district.

Employment Services Programs and Public Hospitals or Hospital Districts—S.B. 304

by Senator Nichols—House Sponsor: Representative Creighton

Public hospitals and hospital districts provide indigent health care services to certain low-income persons. Certain programs, such as the Temporary Assistance for Needy Families program, have an employment services or work-related requirement that the participant must fulfill in order to receive services. This bill:

Authorizes a public hospital or hospital district to establish procedures consistent with those used by HHSC under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code, for administering an employment services program and requiring an applicant or eligible resident to register for work with the Texas Workforce Commission.

Requires the public hospital or hospital district to notify each person with a pending application and all eligible residents of the requirements of the program not less than 30 days before the program is established.

Sexual Abuse and Other Maltreatment Policies—S.B. 471

by Senator West—House Sponsor: Representative Parker

Recent legislation requires each school district to adopt and implement a policy addressing the sexual abuse of children, and other state law requires TEA to develop and periodically update a policy governing certain child abuse reports and a training program on the prevention of child abuse. Such policies do not have to address other forms of abuse or the prevention of child maltreatment, nor does the TEA policy require a school district to use the training program, and child care facilities are not required to adopt or implement an internal child abuse prevention policy. This bill:

Requires the district improvement plan, which each school district is required to have, to include the policy addressing sexual abuse and other maltreatment of children, in addition to existing requirements, and provides that this provision applies beginning with the 2011-2012 school year.

Requires each open-enrollment charter school, in addition to each school district, to adopt and implement a policy that addresses other maltreatment of children, in addition to sexual abuse of children, and to include it in the district improvement plan and any informational handbook provided to students and parents.

Requires the policy to address methods, which must include training concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children, for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention and available counseling options for students affected by sexual abuse and other maltreatment.

Sets forth provisions relating to disciplinary proceedings and immunity from liability.

Defines "other maltreatment."

Requires a child-placing agency or day-care center to provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the Department of Family and Protective Services (DFPS) or other appropriate entity.

Requires that the type of training be determined by DFPS rule, to be provided for at least an hour annually, and meet certain requirements.

Requires each child-placing agency or day-care center to adopt and implement a policy addressing sexual abuse and other maltreatment of children and sets forth certain requirements regarding the policy.

Employment of Physicians by Certain Nonprofit Hospitals—S.B. 761

by Senator West—House Sponsor: Representative Truitt

Current law prohibiting the corporate practice of medicine prohibits a non-licensed person or entity from sharing in compensation paid to a physician for medical care services. Some charitable hospitals that have not charged for the services of the hospital or physicians have employed physicians directly for decades. This bill:

Authorizes a hospital to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital if the hospital primarily provides medical care to children younger than 18 years of age and is owned or operated by a nonprofit fraternal organization or has a governing body the majority of members of which belong to a nonprofit fraternal organization.

Provides additional requirements to preserve the independent medical judgment of physicians employed by such hospitals.

Training and In-service Education Requirements for Nurse Aides—S.B. 795

by Senator Nelson—House Sponsor: Representative Naishtat

Nurse aides provide direct care, such as assistance with eating, bathing, and housekeeping, to persons who require long-term care. While under observation during nursing facility licensing inspections in recent years, many nurse aides have not been able to demonstrate the proper skills to care for patients. This bill:

Requires an applicant, in order to be listed on the nurse aide registry (registry), to complete a training program approved by DADS that includes not less than 100 hours of course work as specified by rule and a competency evaluation on completion of the training program.

Provides that a person listed as a nurse aide on the registry before September 1, 2013, is entitled to continue to be included on the registry without fulfilling any additional education training or evaluation requirements established by the executive commissioner of HHSC under the above provision, if the person satisfies the other qualifications required by the executive commissioner of HHSC and Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses), Health and Safety Code.

Provides that a listing on the registry expires on the second anniversary of the date of the listing.

Requires a nurse aide, in order to renew a nurse aide's listing on the registry, to complete at least 24 hours of in-service education every two years, including training in geriatrics and, if applicable, in the care of patients with Alzheimer's disease.

Requires the executive commissioner of HHSC, not later than May 1, 2013, to adopt rules as necessary to implement the provisions.

Provides that the provisions apply only to an application for initial listing on the registry or for renewal of a listing on the registry filed on or after September 1, 2013.

Disposal of Ambulances Funded by Department of State Health Services—S.B. 901

by Senator Hegar—House Sponsor: Representative Kolkhorst

DSHS provides certain grants to provide for the full funding of a purchase of an ambulance. Currently, there are no time constraints or approval requirements related to disposing of such an ambulance, causing certain persons concern that such an ambulance may be sold and disposed of prematurely and for improper reasons. This bill:

Prohibits a grant recipient, before the fourth anniversary of the date a grant is awarded under Section 773.122(a) (relating to requiring the commissioner of state health services to use money in certain accounts to fund county and regional emergency medical services, designated trauma facilities, and trauma care systems), Health and Safety Code, or Section 780.004(a) (relating to requiring the commissioner of state health services to use money appropriated from the account established under the relating chapter to fund designated trauma facilities, county and regional emergency medical services, and trauma care systems), Health and Safety Code, from disposing of an ambulance for which the total costs of purchasing were paid only from grants awarded under either of those two subsections unless the grant recipient obtains DSHS prior approval.

Informed Consent to an Abortion—H.B. 15

by Representative Sid Miller et al.—Senator Sponsor: Senator Patrick

The Texas Woman's Right to Know Act of 2003 requires a doctor who is to perform an abortion to discuss with the woman how long she has been pregnant, the medical risks of having an abortion, and the medical risks of continuing the pregnancy. The Act also requires the doctor to tell the woman that benefits may be available to help with medical care before, during, and after childbirth; requires the father to help support the child even if he has offered to pay for an abortion; allows government and private agencies to counsel the woman in preventing pregnancy or refer her to a doctor for birth control medications or devices; and provides that the woman has the right to look at printed information provided to her if she chooses to see the material. This bill:

Defines "abortion," "abortion provider," "medical emergency," and "sonogram."

Provides that consent to an abortion is voluntary and informed only if the physician who is to perform the abortion informs the pregnant woman of the physician's name; the physician who is to perform the abortion or the physician's agent provides the pregnant woman with printed informational materials and informs the pregnant woman that those materials have been provided by DSHS, are accessible on the Internet, describe the unborn child and list agencies that offer alternatives to abortion, and include a list of agencies that offer sonogram services at no cost to the pregnant woman.

Provides that consent to an abortion is voluntary and informed only if, before any sedative or anesthesia is administered to the pregnant woman and at least 24 hours before the abortion or at least two hours before the abortion if the pregnant woman lives 100 miles or more from the nearest licensed abortion provider, the physician or a sonographer certified by a national registry performs a sonogram on the pregnant woman; the physician provides, in a manner understandable to a layperson, a verbal explanation of the results of the sonogram images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs; and the physician or certified sonographer makes audible the heart auscultation for the pregnant woman to hear, if present, in a quality consistent with current medical practice and provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the heart auscultation.

Provides that consent to an abortion is voluntary and informed only if before receiving a sonogram and before the abortion is performed and before any sedative or anesthesia is administered, the pregnant woman completes and certifies with her signature an "Abortion and Sonogram Election" form provided in this bill.

Provides that consent to an abortion is voluntary and informed only if before the abortion is performed, the physician receives a copy of the signed, written certification and the pregnant woman is provided the name of each person who provides or explains the information required.

Provides that during a visit made to a facility to fulfill the requirements of this bill, the facility and any person at the facility may not accept any form or payment, deposit, or exchange or make any financial agreement for an abortion or abortion-related services other than for payment of a service required to provide that the abortion is voluntary and informed and the amount of those services may not exceed the reimbursement rate established for the service by HHSC for statewide medical reimbursement programs.

Establishes that the required information to be provided may not be provided by audio or video recording and must be provided at least 24 hours before the abortion is to be performed orally and in person in a private and confidential setting if the pregnant woman lives less than 100 miles from the nearest licensed abortion provider; orally by telephone or in person in a private or confidential setting if the pregnant woman certifies that the woman lives 100 miles or more from the nearest licensed abortion provider.

Requires, before the abortion begins, that a copy of the signed, written certification received by the physician be placed in the pregnant woman's medical records.

Requires that a copy of the signed, written certification be retained by the facility where the abortion is performed until the seventh anniversary of the date it is signed or if the pregnant woman is a minor, the later of the seventh anniversary of the date it is signed or the woman's 21st birthday.

Allows a pregnant woman to choose not to view the printed materials after she has been provided the materials or the sonogram images or hear the heart auscultation and the verbal explanation of the results of the sonogram images if the woman's pregnancy is a result of a sexual assault, incest, or other violation of the Penal Code that has been reported to law enforcement authorities or that has not been reported because she has a reason that she declines to reveal because she reasonably believes that to do so would put her at risk of retaliation resulting in serious bodily injury; the woman is a minor and obtaining an abortion in accordance with judicial bypass procedures in the Family Code; the fetus has an irreversible medical condition or abnormality, as previously identified by reliable diagnostic procedures and documented in the woman's medical file.

Provides that the physician and the pregnant woman are not subject to a penalty solely because the pregnant woman chooses not to view the printed materials or the sonogram images, hear the heart auscultation, or receive the verbal explanation, if waived.

Requires the physician or an agent of the physician, if the pregnant woman chooses not to have an abortion, to provide the woman with a publication developed by the child support division of the Office of the Attorney General that provides information about paternity establishment and child support.

Authorizes a physician to perform an abortion without obtaining informed consent in a medical emergency.

Requires a physician who performs an abortion in a medical emergency to include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency and to certify to the Department of State Health Services, not later than the 30th day after the abortion is performed, the specific medical condition that constituted the emergency.

Requires hospitals, ambulatory surgical centers, and abortion facilities to comply with the requirements of the Woman's Right to Know Act.

Requires DSHS to inspect an abortion facility at random, unannounced, and reasonable times as necessary to ensure compliance.

Requires that appropriate disciplinary action be taken against a physician who violates the Woman's Right to Know Act and to refuse to admit an examination or refuse to issue a license or renewal license to a person who violates the Woman's Right to Know Act.

Adult Diabetes Education Program—H.B. 123

by Representatives Veasey and Alonzo—Senate Sponsor: Senator Nelson

Diabetes is a chronic disease which can lead to complications such as blindness, kidney failure, and amputation of limbs. According to a report released by the Texas Health Institute, it is projected that the number of Texans with diabetes will be eight million by 2040. In addition to the effects and costs to the individual, Texas incurs significant health care costs due to diabetes and related complications. Certain diet and lifestyle changes and education about managing the disease can often help address some issues related to diabetes, particularly adult-onset diabetes. This bill:

Authorizes DSHS, in counties with populations of more than 100,000, to assist hospital districts and county hospital systems in providing an adult diabetes education program (program) based on a curriculum developed by the Texas Diabetes Council (council).

Requires a hospital district or county hospital system that participates in the program to make the program available in English and Spanish using the curriculum developed by the council and make the program available in the county, including at each rural health clinic the district or system may have.

Requires the council, not later than June 1, 2012, to develop for the program a curriculum emphasizing life choices that enable a diabetic patient to control the disease and improve the patient's standard of living.

Health Benefit Plan Coverage for Orally Administered Anticancer Medications—H.B. 438

by Representatives Thompson et al.—Senate Sponsor: Senator Carona

Oral medications are usually covered under an insured's prescription drug benefit plan while intravenous medications are usually covered under an insured's health benefit plan. Due to coinsurance provisions, the cost of a drug is generally more expensive under a prescription drug benefit plan than under a health benefit plan.

Recent technological advancements have increased the availability and effectiveness of oral medications for cancer treatment so that they are often preferable to intravenous chemotherapy treatments rather than oral chemotherapy treatment because of the cost disparity of coinsurance to the insured under the insured's prescription versus health benefit plans.

Legislation passed in 2009 directed TDI to study the disparity in co-payments between orally and intravenously administered chemotherapy treatments. In a report released in August of 2010, TDI recommended that the legislature pass legislation to eliminate the disparity in cost sharing requirements for oral and intravenous cancer medications. This bill:

Provides that provisions apply only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by an insurance company, a group hospital service corporation, a fraternal benefit society, a stipulated premium company, an exchange, a Lloyd's plan, a health maintenance organization, or an approved nonprofit health corporation.

Excludes a plan that provides coverage only for fixed indemnity benefits for a specified disease or diseases; only for accidental death or dismemberment; for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury; as a supplement to a liability insurance policy; only for dental or vision care; or only for indemnity for hospital confinement.

Excludes a Medicare supplemental policy; a workers' compensation insurance policy; medical payment insurance coverage provided under an automobile insurance policy; a credit insurance policy; a limited benefit policy that does not provide coverage for physical examinations or wellness exams; a multiple employer welfare arrangement; or a long-term insurance policy, including a nursing home fixed indemnity policy.

Excludes a qualified health plan offered through a health benefit exchange.

Requires that a health benefit plan that provides coverage for cancer treatment must provide coverage for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells on a

basis no less favorable than intravenously administered or injected cancer medication that are covered as medical benefits by the plan.

Does not prohibit a health benefit plan from requiring prior authorization for an orally administered anticancer medication and provides that the cost to the covered individual may not exceed the coinsurance or copayment that would be applied to a chemotherapy or other cancer treatment visit.

Provides that a health benefit plan issuer may not reclassify anticancer medications or increase a coinsurance, copayment, deductible, or other out-of-pocket expense imposed on anticancer medications to achieve compliance and provides that any out-of-pocket expense increases applied to anticancer medications must also be applied to the majority of comparable medical or pharmaceutical benefits.

Does not prohibit a health benefit plan issuer from increasing cost-sharing for all benefits, including anticancer treatments.

Emergency Prehospital Care—H.B. 577

by Representative McClendon—Senate Sponsor: Senator Deuell

Concern has been voiced that if emergency medical services (EMS) personnel who are first responders to an emergency outside of a hospital are required to review, evaluate, and interpret written documents other than an out-of-hospital do-not-resuscitate (DNR) order, the personnel could be prevented from attending to a patient's emergency medical needs at the scene or while traveling to a hospital. This bill:

Requires EMS personnel, when responding to a call for assistance, to only honor a properly executed or issued out-of-hospital DNR order or prescribed DNR identification device.

Provides that in such circumstances, EMS personnel have no duty to review, examine, interpret, or honor a person's other written directive.

Provides that EMS personnel who are providing emergency prehospital care to a person are subject to Chapter 166 (Advance Directives), Health and Safety Code, including Section 166.102 (Physician's DNR Order May Be Honored by Health Care Personnel Other than EMS Personnel).

Authorizes a person's personal physician, if the physician present and assumes responsibility for the care of the person under applicable requirements, while the person is receiving emergency prehospital care, to order the termination of cardiopulmonary resuscitation (CPR) only if, based on the physician's professional medical judgment, the physician determines that resuscitation should be discontinued.

Provides that, if a person's personal physician is not present or does not assume responsibility for the care of the person while the person is receiving emergency prehospital care, the EMS system's medical director or online physician is responsible for directing the EMS personnel who are providing emergency prehospital care to the person and may order the termination of CPR only if, based on the medical director's or online physician's professional medical judgment, the medical director or online physician determines the resuscitation should be discontinued.

Optional County Indigent Health Care Services—H.B. 871

by Representative Yvonne Davis—Senate Sponsor: Senator Zaffirini

Counties are not currently authorized to provide physical and occupational therapy services as optional health care services under the Indigent Health Care and Treatment Act. This bill:

Authorizes a county to add physical and occupational therapy services and any other appropriate health care services identified by DSHS to the other existing medically necessary services or supplies that the county determines to be cost-effective that the county may provide, in addition to required basic health care services.

Formulary and Modifications of Prescription Drug Coverage—H.B. 1405

by Representative Smithee et al.—Senate Sponsor: Senator Deuell

Provisions in the Insurance Code regarding coverage of prescription drugs specified by drug formulary define "enrollee" and establish exceptions and applicability to a group health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including a group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or a group contract or similar coverage document. This bill:

Defines "enrollee" as an individual who is covered under a health benefit plan, rather than a group health benefit plan, including a covered dependent.

Establishes applicability in Subchapter A (Coverage of Prescription Drugs in General), Chapter 1369 (Benefits Related to Prescription Drugs and Devices and Related Services), Insurance Code, to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or a small or large employer group contract or similar coverage document.

Deletes the exception to applicability in the Insurance Code of a small employer health benefit plan written under the Health Insurance Portability and Availability Act.

Includes as an exception to applicability the child health plan program under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, or the health benefits plan for children under Chapter 63 (Health Benefits Plan for Certain Children), Health and Safety Code.

Includes as an exception to applicability a Medicaid managed care program operated under the Government Code or a Medicaid program operated under the Human Resources Code.

Adds Section 1369.0541 (Modification of Drug Coverage Under Plan) to the Insurance Code.

Provides that a health benefit plan issuer may modify drug coverage provided under a health benefit plan if the modification occurs at the time of coverage renewal; the modification is effective uniformly among all group health benefit plan sponsors covered by identical or substantially identical health benefit plans or all individuals covered by identical or substantially identical individual health benefit plans; and not later than the 60th day before the date the modification is effective, the issuer provides written notice of the modification to the commissioner of insurance, each affected group health benefit plan sponsor, each affected enrollee in an affected group health benefit plan, and each affected individual health benefit plan holder.

Provides that modifications affecting drug coverage that require notice include removing a drug from a formulary; adding a requirement that an enrollee receive prior authorization for a drug; imposing or altering a quantity limit for a drug; imposing a step-therapy restriction for a drug; and moving a drug to a higher cost-sharing tier unless a generic drug alternative to the drug is available.

Allows a health plan issuer to offer an enrollee in the plan the option of receiving required notifications by e-mail.

Childbirths Occurring Before the 39th Week of Gestation—H.B. 1983

by Representatives Kolkhorst and Walle—Senate Sponsor: Senator Nelson

Certain medical research suggests that a nonmedically indicated labor induction performed on a woman earlier than the 39th week of gestation can lead to potentially harmful and costly consequences, such as the need for the use of neonatal intensive care units and hospital readmissions due to health issues. Additionally, according to HHSC, a significant percentage of births in Texas are paid for by the state's Medicaid program. This bill:

Requires HHSC to achieve cost savings with improved outcomes by adopting and implementing quality initiatives that are evidence-based, tested, and fully consistent with established standards of clinical care and that are designed to reduce the number of elective or nonmedically indicated induced deliveries or cesarean sections performed at a hospital on a medical assistance recipient before the 39th week of gestation.

Requires HHSC to coordinate with physicians, hospitals, managed care organizations, and HHSC's billing contractor for the medical assistance program to develop a process for collecting information regarding the number of such induced deliveries and cesarean sections that occur during prescribed periods.

Requires a hospital that provides obstetrical services to collaborate with physicians providing services at the hospital to develop quality initiatives to reduce the number of elective or nonmedically indicated induced deliveries or cesarean sections performed at the hospital on a woman before the 39th week of gestation.

Requires HHSC to conduct a study to assess the effects of the quality initiatives adopted on infant health and frequency of infant admissions to neonatal intensive care units and hospital readmissions for mothers and infants, and requires HHSC, not later than December 1, 2012, to submit a written report containing the findings of the study conducted together with HHSC's recommendations to the appropriate legislative standing commissions.

Information in Mammography Reports—H.B. 2102

by Representative Hernandez Luna et al.—Senate Sponsor: Senator Ellis

Mammograms continue to work in detecting breast cancer for many women, but supplemental screening may be essential for those women for whom mammograms are ineffective. This bill:

Requires a certified mammogram facility, on completion of a mammogram, to provide a detailed notice regarding dense breast tissue and supplemental screening tests that may be suggested by a physician.

Provides that this law does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action and that the required information or evidence that a person did not provide the information is not admissible in a civil, judicial, or administrative proceeding.

Texas HIV Medication Advisory Committee—H.B. 2229

by Representative Coleman et al.—Senate Sponsor: Senator Ellis

The Texas HIV Medication Program, administered by DSHS, provides various medications for the treatment of HIV and other opportunistic infections for low-income Texans. The HIV Medication Program Advisory Committee was established by agency rule to make recommendations regarding the Texas HIV Medication Program to HHSC and DSHS, but due to an oversight was abolished on March 1, 2008, in accordance with agency rules. This bill:

Requires the executive commissioner of HHSC to establish the Texas HIV Medication Advisory Committee (committee).

Sets forth provisions related to the committee's composition, appointment of initial committee members, committee member terms, committee officers, committee meetings, member attendance, procedures, subcommittees, statements by members, member duties, compensation, expenses, and certain other items.

Requires the committee to advise the executive commissioner of HHSC and DSHS in the development of procedures and guidelines for the Texas HIV medication program, review the program's goals and aims, evaluate the program's ongoing efforts, recommend both short-range and long-range goals and objectives for medication needs, and perform any other tasks assigned by the executive commissioner.

Requires the committee to file an annual written report with the commissioner of State Health Services not later than March 31 of each year and sets forth the content of the report.

Repeals a provision regarding an advisory committee related to the HIV medication program.

Payment of Claims to Pharmacies and Pharmacists—H.B. 2292

by Representatives Hunter and Hopson—Senate Sponsor: Senator Van de Putte

Health maintenance organizations (HMOs) and entities such as a pharmacy benefit managers must pay health care providers promptly within a specified time frame for claims submitted electronically or on paper. Existing technology and the fact that the majority of pharmacy claims are filed electronically allow a pharmacy to receive feedback almost instantly regarding a claim's acceptance or rejection. HMOs, preferred provider benefit plans, and pharmacy benefit managers also must adhere to certain procedures when auditing health care provider claims. This bill:

Defines "extrapolation" as a mathematical process or technique used by an HMO or pharmacy benefit manager that administers pharmacy claims for an HMO in the audit of a pharmacy or pharmacist to estimate audit results or findings for a larger batch or group of claims not reviewed by the HMO or pharmacy benefit manager.

Requires that an HMO or a pharmacy benefit manager that administers pharmacy claims for the HMO that affirmatively adjudicates a pharmacy claim that is electronically submitted, pay the total amount of the claim through electronic funds transfer not later than the 18th day after the date on which the claim was affirmatively adjudicated.

Requires that an HMO or a pharmacy benefit manager that administers pharmacy claims for the HMO that affirmatively adjudicates a pharmacy claim that is not electronically submitted, pay the total amount of the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

Prohibits an HMO or pharmacy benefit manager from using extrapolation to complete the audit of a provider who is a pharmacist or pharmacy and from requiring extrapolation audits as a condition of participation in the HMO's contract, network, or program for a provider that is a pharmacist or pharmacy.

Requires that an HMO or a pharmacy benefit manager that performs an on-site audit of a provider who is a pharmacist or pharmacy provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible.

Establishes that Section 843.344 (Applicability of Subchapter to Entities Contracting with Health Maintenance Organization), Insurance Code, applies to a person, including a pharmacy benefit manager, with whom an HMO contracts to process or pay claims; obtain the services of physicians and providers to provide health care services to enrollees; or issue verifications or preauthorizations.

Establishes that it is the intent of this legislation that the requirements regarding payment of claims to providers who are pharmacists or pharmacies apply to all HMO and pharmacy benefit managers unless otherwise prohibited by federal law.

Provides conforming language for other sections of the Insurance Code.

Establishes that the definition of "health care provider" includes a pharmacist and a pharmacy.

Requires that an insurer, or a pharmacy benefit manager that administers pharmacy claims for the insurer under a preferred provider benefit plan, that affirmatively adjudicates a pharmacy claim that is electronically submitted, pay the total amount of the claim through electronic funds transfer not later than the 18th day after the date on which the claim was affirmatively adjudicated.

Requires that an insurer, or a pharmacy benefit manager that administers pharmacy claims for the insurer under a preferred provider benefit plan, that affirmatively adjudicates a pharmacy claim that is not electronically submitted, pay the total amount of the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

Prohibits an insurer or pharmacy benefit manager from using extrapolation to complete the audit of a provider who is a pharmacist or pharmacy and from requiring extrapolation audits as a condition of participation in the insurer's contract, network, or program for a provider that is a pharmacist or pharmacy.

Requires that an insurer or a pharmacy benefit manager that performs an on-site audit of a provider who is a pharmacist or pharmacy provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible.

Establishes that Section 1301.109 (Applicability to Entities Contracting With Insurer), Insurance Code, applies to a person, including a pharmacy benefit manager, with whom an insurer contracts to process or pay claims; obtain the services of physicians and providers to provide health care services to enrollees; or issue verifications or preauthorizations.

Establishes that it is the intent of this legislation to that the requirements regarding payment of claims to preferred providers who are pharmacists or pharmacies apply to all insurers and pharmacy benefit managers unless otherwise prohibited by federal law.

Sickle Cell Disease Program—H.B. 2312

by Representatives Coleman and Miles—Senate Sponsor: Senator West

Sickle cell disease consists of several inherited blood disorders that primarily affect persons of certain ethnic backgrounds. Those affected by the disease often suffer episodes of pain, serious infections, chronic anemia, damage to body organs, and even death. There is a need for education programs, voluntary testing, counseling, and health and medical reimbursement services for sickle cell disease and sickle trait. This bill:

Requires DSHS to identify efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with sickle cell trait and sickle cell disease; assist the advisory committee created under Section 33.053 (Advisory Committee), Health and Safety Code (advisory committee); and provide the advisory committee with staff support necessary for the advisory committee to fulfill its duties.

Requires the governor to appoint an advisory committee composed of 11 members, including a sickle cell disease (program) program administrator, and sets forth the composition of the advisory committee and provides certain required considerations regarding appointing members.

Requires the advisory committee to conduct a needs assessment and advise DSHS and the program administrator regarding the needs of individuals with sickle cell trait and sickle cell disease and make recommendations, including recommendations regarding legislative action, DSHS rules, and program administration.

Requires the program administrator to report periodically to the executive commissioner of HHSC and to report annually to the governor regarding the advisory committee's activities and findings.

Requires the program administrator to investigate and identify grants and other funding mechanisms for entities that provide education regarding sickle cell trait and sickle cell disease; improve the detection of sickle cell trait and sickle cell disease and the treatment of sickle cell disease; coordinate delivery of services for people with sickle cell disease; provide access to information regarding genetic testing and counseling; bundle technical services related to the prevention and treatment of sickle cell disease; and provide training for health professionals regarding sickle cell trait and sickle cell disease.

Requires the program administrator to award grants, if possible, to eligible organizations in different regions of the state.

Authorizes the executive commissioner of HHSC to adopt rules to implement these provisions.

Provides that Subchapter D (Sickle Cell Disease Program), Chapter 33, Health and Safety Code, expires September 1, 2017.

Definition of County General Revenue Levy for Indigent Health Care—H.B. 2315

by Representative Coleman—Senate Sponsor: Senator Deuell

Under current law, a county without a public hospital is required to provide certain medical services for indigent county residents and, if the expenditures of the services exceed a certain percentage of the county's general revenue tax levy, the county is eligible for state assistance through matching grant funds. Currently, expenditures for debt services are included in the calculation of the tax levy, and interested parties assert that this penalizes counties that fund necessary capital improvements, such as jails, county buildings, and transportation projects, by the issuance of bonds and certificates of obligation. This bill:

Redefines the definition of "general revenue levy" provided in Section 61.002(5), Health and Safety Code, to exclude the property taxes imposed by a county that are dedicated to the payment of interest or principle on county debt.

Neonatal Intensive Care Unit Council—H.B. 2636

by Representatives Kolkhorst and Walle—Senate Sponsor: Senator Nelson

Texas has experienced an increase in preterm births and in the number of neonatal intensive care units throughout the state. There is concern that current standards relating to neonatal intensive care units are insufficient. This bill:

Requires the executive commissioner of HHSC to create and appoint the members of the Neonatal Intensive Care Unit (NICU) Council (council) to study and make recommendations regarding NICU operating standards and reimbursement through the Medicaid program for services provided to an infant admitted to an NICU.

Requires the council to develop standards for operating an NICU in Texas; develop an accreditation process for aa NICU to receive reimbursement for services provided through the Medicaid program; and study and make recommendations regarding best practices and protocols to lower NICU admissions.

Sets forth requirements regarding the members the executive commissioner of HHSC is required to appoint and requires the executive commissioner to appoint the members of the council not later than December 1, 2011.

Requires the council to submit a report, not later than January 1, 2013, to the executive commissioner, the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committee on its findings and recommendations.

Chronic Kidney Disease Task Force—H.B. 3724

by Representative Guillen—Senate Sponsors: Senators Zaffirini and Harris

Kidney disease is a growing problem in affecting numerous Texans who have diabetes, high blood pressure, and other medical issues. According to the End-Stage Renal Disease Network, based on 2008 data, almost 44,000 Texans are receiving dialysis or have had a kidney transplant. H.B. 1373, 80th Legislature, Regular Session, 2007, created the Chronic Kidney Disease Task Force (task force) to develop plans and make recommendations regarding addressing chronic kidney disease and educating certain persons on topics concerning the disease, and H.B. 2055, 81st Legislature further modified and extended the task force. This bill:

Modifies the duties of the task force to require the task force to coordinate the implementation of the state's cost-effective plan for prevention, early screening, diagnosis, and management of chronic kidney disease for the state's population through national, state, and local partners, rather than developing such a plan; and to require the task force to educate health care professionals on the use of clinical practice guidelines for screening, detecting, diagnosing, treating, and managing chronic kidney disease, its comorbidities, and complications based on the Kidney Disease Outcome Quality Initiative Clinical Practice Guidelines for Chronic Kidney Disease, rather than develop a plan for surveillance and data analysis to assess the impact of chronic kidney disease.

Requires the task force, not later than January 1, 2013, to submit its findings and recommendations to certain persons.

Provides that the task force is abolished and the related chapter expires on August 31, 2013, rather than September 1, 2011.

Disclosure of Data and Texas Bleeding Disorders Advisory Council—S.B. 156

by Senator Huffman—House Sponsor: Representative Veronica Gonzales

Recent legislation transferred the powers and duties of the Texas Health Care Information Council, including the collection of hospital inpatient discharge data, to the DSHS Center for Health Statistics. Current law does not allow DSHS to disclose certain confidential data collected by DSHS for use by its programs.

S.B. 1566, 80th Legislature, Regular Session, 2007, created the Texas Bleeding Disorders Advisory Council (council), as a two-year study of issues that affect the health and well-being of persons in Texas with bleeding disorders, such as hemophilia. This bill:

Sets forth certain provisions relating to the composition of the council; the appointment of council members; vacancy; the presiding officer; compensation and reimbursement; meetings; gifts, grants and donations; and certain prohibited funding.

Authorizes the council, using existing resources, to conduct studies and advise DSHS, HHSC, and TDI on public use data, outcome data, and other information submitted to or collected by DSHS under Chapter 108 (Texas Health Care Information Council), Health and Safety Code, or other law related to hemophilia or bleeding or clotting disorders and DSHS's disclosure and dissemination of that information within and outside DSHS; and other issues that affect the health and wellness of persons living with hemophilia or other bleeding or clotting disorders.

Requires the council, not later than December 1 of each even-numbered year, using existing resources, to submit a report of its finding and recommendations to the governor, the lieutenant governor, and the speaker of the house of representatives, and requires that the report be made public and be subject to public review and comment before adoption by the council.

Requires the commissioner of state health services, not later than six months after the date the council's annual report is issued, to report on efforts to implement the recommendations in the report.

Requires that the commissioner's annual report be made available to the public and include any related data or national activities in which the council participates.

Provides that the Health and Safety Code chapter related to the council expires and the council is abolished September 1, 2015.

Provides that powers and duties of the Texas Health Care Information Council (HCIC) under Chapter 108, Health and Safety Code, were transferred to DSHS and that a reference in law to HCIC means DSHS.

Requires DSHS, rather than HCIC, to coordinate data collection with the data submission formats used by hospitals and other providers, and requires DSHS to accept data in the format developed by the American National Standards Institution, rather than another entity, or its successor or other nationally accepted standardized forms that hospitals and other providers use for other complementary purposes.

Requires DSHS, subject to specific limitations established in law and by the executive commissioner of HHSC rule, to make determinations on requests for information in favor of access.

Requires the executive commissioner of HHSC, rather than HCIC, by rule to designate the characters to be used as uniform patient identifiers.

Provides certain exceptions to the provision that all data collected and used by DSHS under Chapter 108, Health and Safety Code, is subject to certain confidentiality provisions and criminal penalties.

Authorizes DSHS, notwithstanding other law, to provide information made confidential by Section 108.013 (Confidentiality and General Access to Data), Health and Safety Code, to HHSC or a health and human services agency provided that the receiving agency has appropriate controls in place to ensure the confidentiality of any personal information contained in the information shared by DSHS is subject to certain limits on further disclosure, and provides this provision as an exception to certain prohibitions on the release of certain identifying data elements.

Authorizes DSHS to disclose certain data collected that is not included in public use data to any program within DSHS if the disclosure is reviewed and approved by the institutional review board, and sets forth certain confidentiality provisions related to such data.

Lists certain provisions that do not apply to the disclosure of data to a DSHS program.

Provides that nothing in Section 108.013, Health and Safety Code, authorizes the disclosure of physician identifying data.

Requires DSHS to establish an institutional review board, rather than a scientific review panel, to review and approve requests for access to data not contained in public use data.

Requires the executive commissioner of HHSC, in order to assist the institutional review board in determining whether to approve a request for information, to adopt rules similar to the Federal Centers for Medicare and Medicaid Services' guidelines on releasing data, and requires that approval to release information must require that certain confidential provisions be maintained and that any subsequent use of the information conform to those confidentiality provisions.

Repeals Section 108.002(5), Health and Human Safety Code, relating to the definition of "council."

Indigent Health Care and Sponsored Aliens—S.B. 420

by Senators Deuell and West—House Sponsor: Representative Van Taylor

The County Indigent Health Care Program provides certain basic health care services and optional health care services for certain eligible residents who do not qualify for certain other state and federal health care assistance programs. Currently, there is a restriction prohibiting standards or procedures for indigent health from being more restrictive than the Temporary Assistance for Needy Families (TANF) program or procedures. Sponsors of sponsored aliens execute an affidavit of support on behalf of the sponsored alien to show that the sponsored alien has means of financial support and will more than likely not be dependent on public assistance. This bill:

Defines "sponsored alien."

Requires DSHS by rule to provide certain considerations in determining eligibility for indigent health care services, including that if an applicant is a sponsored alien, a county may include in the income and resources of the applicant the income and resources of a person who executed an affidavit of support on behalf of the applicant and the income and resources of the spouse of a person who executed an affidavit of support on behalf of the applicant, if applicable.

Adds the above provision regarding sponsored aliens as an exception to the law prohibiting DSHS from adopt an application, documentation, or verification standard or procedure for indigent health care that is more restrictive than the TANF-Medicaid program or procedures.

Diabetes Mellitus Registry in Bexar County—S.B. 510

by Senator Van de Putte—House Sponsor: Representative Gutierrez

Recently enacted legislation created and modified a diabetes mellitus registry pilot program in Bexar County. This bill:

Requires DSHS, in coordination with participating public health districts (districts), to create and maintain an electronic diabetes mellitus registry (registry) to track the glycosylated hemoglobin level of each person who has a laboratory test to determine that level performed at a clinical laboratory in the participating district.

Authorizes a district to participate in the registry and requires that a participating district be solely responsible for the costs of establishing and administering the program in that district.

Requires that, with the exception of information from a patient who chooses not be in the registry, a physician practicing in a district who, on or after November 1, 2011, orders a glycosylated hemoglobin test (test) for a patient submit to a clinical laboratory located in the participating district the diagnosis codes of a patient along with the patient's sample.

Requires the clinical laboratory to submit to the district for a patient whose diagnosis codes were submitted with the patient's sample the results of the test along with the diagnosis codes provided by the physician for that patient.

Requires a physician who orders a test for a patient to provide the patient with a form, which DSHS will develop and will make available on its Internet website not later than October 1, 2011, that allows the patient to opt out of having the patient's information included in the registry, and prohibits the physician, if a patient opts out by signing the form, from submitting to the clinical laboratory the patient's diagnosis codes along with the patient's sample.

Requires the participating districts to compile results in order to track certain information and provide DSHS with de-identified aggregate data.

Requires DSHS and the participating districts to promote discussion and public information programs regarding diabetes mellitus.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement these provisions.

Requires DSHS, not later than December 1 of each even-numbered year, to submit to the appropriate persons a report regarding the registry and specifies the content.

Provides that these provisions apply only to a district that serves a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality.

Electronic Prescriptions for Schedule II Controlled Substances—S.B. 594

by Senators Van de Putte and West—House Sponsor: Representative Zerwas

In 2010, the United States Department of Justice's Drug Enforcement Administration published an interim final rule to provide practitioners with the option of writing prescriptions for controlled substances electronically. This bill:

Requires a person to provide the Department of Public Safety of the State of Texas (DPS) with the person's Federal Drug Enforcement Administration number not later than the 45th day after the director of DPS issues the person a registration to manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance.

Allows a practitioner the option to record a prescription of a Schedule II controlled substance in an electronic prescription and makes conforming changes to reflect that authorization in relevant sections of the Texas Controlled Substances Act and certain other codes.

Prohibits a person, except in certain emergencies, from dispensing a Schedule II controlled substance without a prescription, including without an electronic prescription, that meets certain requirements and is appropriately completed by the practitioner.

Authorizes a person, in an emergency, to dispense or administer a Schedule II controlled substance on the oral or telephonically communicated prescription of a practitioner, and requires the person administering or dispensing the substance, if the person is not a prescribing practitioner or a pharmacist, to promptly write the oral or telephonically communicated prescription and include in the written record certain information, including the Federal Drug Enforcement Administration number issued for prescribing and controlled substance in Texas and removing the requirement of including a DPS registration number.

Requires the pharmacist, on receipt of an electronic prescription received from the prescribing practitioner who authorized an emergency oral or telephonically communicated prescription, to annotate the electronic prescription record with the original authorization and date of the emergency oral or telephonically communicated prescription.

Requires a prescription for a controlled substance to include certain information, including, if the prescription is electronic, the quantity of the substance prescribed numerically, and removes the requirement that a prescription, in any form, include the practitioner's DPS registration number, if the prescribing physician is licensed in Texas; and provides similar content requirements for each prescription used to prescribe a Schedule II controlled substance.

Decreases the time in which a dispensing pharmacist is required to send all required information to the director of DPS by electronic transfer or another approved form to not later than the seventh day after the prescription is completely filled.

Requires each prescription used to prescribe a Schedule II controlled substance to include certain information, including, for an electronic prescription, the prescribing practitioner's electronic signature or other secure method of validation authorized by federal law.

Requires the prescribing practitioner, except for an oral prescription, to perform certain actions, including, in the case of an electronic prescription, to electronically sign or validate the electronic prescription as authorized by federal law and transmit the prescription to the dispensing pharmacy.

Requires each dispensing pharmacist to perform certain actions, including, for an electronic prescription, to appropriately record the identity of the dispensing pharmacist in the electronic prescription record.

Prohibits the director of DPS from permitting any person to have access to information submitted to the director relating to certain prescriptions, with certain exceptions, including an investigator of certain state boards, including the Texas Board of Nursing.

Prohibits a physician from delegating certain tasks, including the authority to issue an electronic prescription.

Reporting on and Assessing Programs for Diabetes Prevention and Treatment—S.B. 796

by Senator Nelson—House Sponsor: Representative Susan King

According to the executive commissioner of HHSC, diabetes mellitus is one of the leading reasons Medicaid patients access health care providers. This bill:

Requires HHSC, in coordination with the Texas Diabetes Council (council), to prepare a biennial report that identifies HHSC's priorities for addressing diabetes within the Medicaid population, and requires HHSC to submit the report to the legislature and the governor not later than December 1 of each even-numbered year, with the initial report to be submitted not later than December 1, 2012.

Requires HHSC and the council, not later than December 1, 2012, to prepare and post on HHSC's Internet website a report for elected officials and other policymakers that contains an estimate of the annual direct and indirect costs to both the public and private sectors of preventing diabetes and treating individuals with diabetes in Texas.

Requires the council, in conjunction with developing each state plan described in Section 103.013 (State Plan), Health and Safety Code, to conduct a statewide assessment of existing programs for the prevention of diabetes and treatment of individuals with diabetes that are administered by HHSC or a health and human services agency, and sets forth the data to be collected.

Requires the council to submit to the governor, the lieutenant governor, and the legislature a written report containing the findings of the assessment, not later than November 1 of each odd-numbered year, with the report on the initial assessment to be conducted and submitted not later than November 1, 2013.

Continuing Education Relating to Tick-Borne Diseases—S.B. 1360

by Senator Harris et al.—House Sponsors: Representatives Hunter and Naishtat

In Texas, the incidence of Lyme and tick-borne diseases, diseases which can be difficult to diagnose and the symptoms of which can be debilitating, is increasing at a steady rate. There are two internationally recognized standards of care for treating Lyme disease: one from the Infectious Diseases Society of America and the other from the International Lyme and Associated Diseases Society. Medical and nursing education on the appropriate care and treatment of tick-borne diseases, particularly knowledge of both forms of treatment, is essential to the delivery of necessary health care to individuals experiencing tick-borne diseases. This bill:

Encourages a licensed physician who submits an application for a renewal of a license to practice medicine and whose practice includes the treatment of tick-borne disease to include continuing medical education (CME) in the treatment of tick-borne diseases among the hours of CME completed for purposes of certain rules adopted relating to requiring at least one-half of certain established hours of CME requirements to be approved by TMB.

Requires TMB, not later than January 31, 2012, to adopt rules to establish the content of and approval requirements for CME relating to the treatment of tick-borne diseases, and requires TMB, in adopting those rules, to seek input from affected parties and review relevant courses, including courses that have been approved in other states.

Requires that the adopted rules provide for the identification and approval of accredited CME courses that represent an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases.

Requires TMB, if relevant, to consider a physician's participation in such an approved CME course if the physician is being investigated by TMB regarding the physician's selection of clinical care for the treatment of tick-borne disease and the physician completed the course not more than two years before the start of the investigation.

Authorizes TMB to adopt other rules to implement these provisions.

Encourages, as part of certain continuing education requirements as a condition of renewal of a license as a nurse, a license holder whose practice includes the treatment of tick-borne disease to participate, during each two-year licensing period, in continuing education relating to the treatment of tick-borne diseases.

Requires the Texas Board of Nursing (BON) to adopt rules, not later than January 31, 2012, to identify the license holders who are encouraged to complete such continuing education and to establish the content of that continuing education.

Requires BON, in adopting those rules, to seek input from affected parties and review relevant courses, including courses that have been approved in other states.

Medication Administration for Certain Persons With Disabilities—S.B. 1857

by Senator Zaffirini—House Sponsor: Representative Truitt

Chapter 225 of BON Rules and Regulations Relating to Nurse Education, Licensure, and Practice provides rules relating to registered nurses delegation to unlicensed personnel and tasks not requiring delegation in independent living environments for clients with stable and predictable conditions. This bill:

Defines "administration of medication," "client," and "unlicensed person."

Authorizes an unlicensed person to provide administration of medication to a client without the requirement that a registered nurse delegate or oversee each administration if certain requirements regarding the medication, the client's condition, an assessment by a registered nurse and the client's health status, and certain considerations relating to the unlicensed person are met.

Provides that the administration of medication other than an oral medication, a topical medication, or a metered dose inhaler is subject to the rules of BON regarding the delegation of nursing tasks to unlicensed persons in certain independent living environments.

Requires DADS to ensure that the administration of medication by an unlicensed person is reviewed at least annually and after any significant change in a client's condition by a registered nurse or a licensed vocational nurse under the supervision of a registered nurse and an applicable facility or program has policies to ensure that the determination of whether an unlicensed person may provide administration of medication to a client may be made only by a registered nurse.

Requires DADS to verify that each client is assessed to identify the client's needs and abilities regarding the client's medications, the administration of medication by an unlicensed person is performed by someone who is authorized to do so, and the administration of medication to each client is performed in such a manner as to ensure the greatest degree of independence.

Provides that a registered nurse performing a client assessment, or a registered nurse or licensed vocational nurse training an unlicensed person or determining whether an unlicensed person is competent to perform administration of medication may be held accountable or civilly liable only in relation to whether the nurse properly performed certain actions.

Authorizes BON to take disciplinary action against a registered nurse or licensed vocational nurse as it relates to the administration of medication by unlicensed persons only in relation to certain actions.

Prohibits a registered nurse or licensed vocational nurse from being held accountable or civilly liable for the acts or omissions of an unlicensed person performing administration of medication.

Provides that the relevant subchapter applies only to administration of medication provided to certain persons with intellectual and developmental disabilities who are served in certain facilities or by one of certain Section 1915(c) waiver programs.

Requires BON and DADS to conduct a pilot program, which must begin no later than September 1, 2011, to evaluate licensed vocational nurses providing on-call services by telephone to clients, requires the licensed vocational nurses to use standardized and validated protocols or decision trees in performing telephone on-call services in the pilot program, and requires DADS to collect data to evaluate the efficacy of the practice in the pilot program.

Requires BON and DADS, in consultation with affected stakeholders, to develop the goals and measurable outcomes of the pilot program, review the pilot program's outcomes and make recommendations regarding potential regulatory or statutory changes, and on notice of unsafe or ineffective nursing care discovered in the pilot program, review the data or the outcomes and make recommendations for corrective action.

Requires BON and DADS, not later than December 1, 2012, to submit a report detailing the findings of the pilot program and any jointly developed recommendations to certain legislative committees.

Requires DADS to convene an advisory committee of affected stakeholders when developing any policies, processes, or training curriculum required by the subchapter related to the administration of medication by unlicensed persons.

Inappropriate Placement at a Facility and Aging in Place—H.B. 2109

by Representative Truitt—Senate Sponsor: Senator Uresti

In 1999, the 76th Legislature made official policy to permit assisted living residents to age in place, permitting residents to remain in an assisted living facility provided that the resident does not pose a danger to the resident or to others. In 2001, the 77th Legislature developed a statutory procedure to help facilitate aging in place, permitting assisted living residents to remain in a facility provided that certain conditions are met. Interested parties are concerned that some persons are not following this placement process. This bill:

Provides that if a facility identifies a resident who the facility believes is inappropriately placed at the facility, the facility is not required to move the resident if the facility obtains certain documents.

Provides that if a resident is inappropriately placed at a facility, rather than if a DADS inspector determines that a resident is inappropriately placed, the facility is not required to move the resident if, not later than the 10th business day after the date that the facility determines or is informed of DADS determination that a resident is inappropriately placed at the facility, the facility obtains certain documents.

Requires the facility to discharge a resident, if DADS, rather than an inspector, determines that a resident is inappropriately placed at a facility and the facility either agrees with the determination or does not obtain the prescribed written statements and waiver that would allow the resident to remain in the facility.

Authorizes DADS, if a facility is required to discharge the resident because the facility has not obtained the prescribed written statements or DADS does not approve a waiver based on the written statements submitted, to assess an administrative penalty against the facility if the facility intentionally or repeatedly disregards DADS criteria for obtaining a waiver for inappropriate placement of a resident.

Authorizes DADS, if a facility is required to discharge the resident because of the aforementioned circumstances, to seek an emergency suspension, closing order against the facility, or certain other sanctions against the facility if DADS determines there is a significant risk to the residents of the facility and an immediate threat to the health and safety of the residents.

Requires the executive commissioner of HHSC by rule to develop criteria under which DADS may determine when a facility has intentionally or repeatedly disregarded the waiver process.

Requires DADS to develop criteria under which DADS will determine, based on a resident's specific situation, whether it will grant or deny a request for a waiver.

Requires DADS to ensure that each facility and resident is aware of the waiver process for aging in place and requires a facility to include with the facility's required disclosure statement information regarding aging in place policies and procedures.

Requires DADS, in cooperation with assisted living service providers, to develop cost-effective training regarding aging in place, retaliation, and other issues determined by DADS, and requires DADS to require surveyors, facility supervisors, and other staff, as appropriate to complete the described training annually.

Prohibits a DADS employee from retaliating against an assisted living facility, an employee of an assisted living facility, or a person in control of an assisted living facility for complaining about the conduct of a DADS employee; disagreeing with a DADS employee about the existence of certain violations of statute or rule; or asserting a right under state or federal law.

Notice for Care Under the Permanency Care Assistance Program—H.B. 2370

by Representative Dukes—Senate Sponsor: Senator West

The permanency care assistance (PCA) program administered by DFPS provides financial support to relatives who take permanent legal responsibility for a child who meets certain conditions. To participate in the program, the caregiver must become a licensed foster parent, which requires a background check. While some applicants can be deemed ineligible due to certain aspects of their criminal history, other items in their criminal history may be categorized for risk evaluation during which DFPS or the licensed child-placing agency performs an extensive review to determine whether or not a person with a certain criminal conviction poses a risk to children. This bill:

Requires DFPS or the child-placing agency, at the time a person applies to become licensed by DSHS or verified by a licensed child-placing agency or DFPS to provide foster care in order to qualify for the permanency care assistance program, to notify the applicant that a background check, including a criminal history record check, will be conducted on this individual; and inform the applicant about criminal convictions that preclude an individual from becoming a licensed foster home or verified agency foster home and that may also be considered in evaluating the individual's application.

Program of All-Inclusive Care for the Elderly—H.B. 2903

by Representatives Zerwas and Frullo—Senate Sponsor: Senator Deuell

The Program for All-Inclusive Care for the Elderly (PACE) provides community-based services to certain elderly persons who qualify for nursing facility placement, providing access to a full continuum of services while allowing participating individuals to live as independently as possible. Interested parties assert that PACE should be expanded throughout Texas because the program is flexible enough to better meet the health care needs of participating individuals and because medical services provided through the program cost less than if the services were provided in a nursing home setting. This bill:

Requires HHSC, as an integral part, rather than as a part, of the medical assistance program, to develop and implement the PACE program in accordance with Section 4802 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), as amended.

Requires the executive commissioner of HHSC to adopt rules as necessary to implement these provisions and, in adopting the rules, to use the Bienvenir Senior Health Services of El Paso initiative as a model for the program; ensure that a person is not required to hold a certificate of authority as a health maintenance organization to provide services under the PACE program; ensure that participation in the PACE program is available as an alternative to enrollment in a Medicaid managed care plan under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, for eligible recipients; ensure that managed care organizations that contract under Chapter 533, Government Code, consider the availability of the PACE program when considering whether to refer a recipient to a nursing home or other long-term care facility; and establish protocols for the referral of eligible persons to the PACE program.

Requires DADS and area agencies on aging to develop and implement a coordinated plan to promote PACE program sites operating under the applicable provision.

Requires HHSC to adopt policies and procedures, including operating guidelines, to ensure that caseworkers and any other appropriate HHSC staff discuss the benefits of participating in the PACE program with long-term care clients.

Requires HHSC to consider the PACE program as a community-based service option under any "Money Follows the Person" demonstration project or other initiative that is designed to eliminate barriers or mechanisms that prevent or

restrict the flexible use of funds under the medical assistance program to enable a recipient to receive long-term services or supports in a setting of the recipient's choice.

Authorizes a PACE program site to coordinate with entities that are eligible to obtain discount prescription drug prices, as necessary to enable the PACE program site to obtain those discounts.

Requires HHSC to adopt a standard reimbursement methodology for the payment of all PACE organizations for purposes of encouraging a natural increase in the number of PACE program sites throughout the state.

Requires DADS to establish a PACE program team composed of experienced personnel and sets forth the team's responsibilities.

Requires the team to conduct a study to evaluate the feasibility of implementing a statewide standard reimbursement rate for all PACE organizations and, not later than September 1, 2012, submit to HHSC a written report containing the study's findings and the team's recommendations.

Use of Restraints in State Supported Living Centers—S.B. 41

by Senator Zaffirini—House Sponsor: Representative John Davis

In 2008, the Civil Rights Division of the United States Department of Justice reported on its statewide Civil Rights of Institutionalized Persons Act investigation of conditions at SSLC serving persons with intellectual and developmental disabilities in Texas, discussing issues with the prevalent use of restraints, the restraint methods and items used, and the purpose of restraint use, among other findings. This bill:

Requires the executive commissioner of HHSC to adopt rules to ensure that a mechanical or physical restraint is not administered to an SSLC resident unless the restraint is necessary to prevent imminent physical injury and is the least restrictive restraint effective to prevent such injury; the administration of such a restraint to an SSLC resident ends immediately once the imminent risk of physical injury abates; and such a restraint is not administered to an SSLC resident as punishment or as part of a behavior plan.

Requires the executive commissioner of HHSC to adopt rules to prohibit the use of prone and supine holds on an SSLC resident except as transition holds.

Prohibits a person from issuing a standing order to administer on an as-needed basis mechanical or physical restraints to an SSLC resident or from administering such restraints to an SSLC resident pursuant to a standing order to administer restraints on an as-needed basis.

Prohibits a person from using a straightjacket to restrain an SSLC resident.

Requires an SSLC to report to the executive commissioner of HHSC, in the form required by rules of the executive commissioner, each incident in which a physical or mechanical restraint is administered to an SSLC resident.

Provides that, to the extent of a conflict between the subchapter related to these provisions and Chapter 322 (Use of Restraint and Seclusion in Certain Health Care Facilities), Health and Safety Code, the related subchapter controls.

Long-Term Care Services and Community-Based Services—S.B. 222

by Senator Nelson—House Sponsor: Representative Raymond

Interested parties have expressed concern for the needs of persons who are elderly and those with disabilities regarding navigating the long-term care system, accessing certain long-term care services and supports under Medicaid, and accessing community-based services. This bill:

Requires HHSC to consider developing risk management criteria under home and community-based services waiver programs designed to allow individuals eligible to receive services under the programs to assume greater choice and responsibility over the services and supports the individuals receive.

Requires HHSC to ensure that any risk management criteria include a requirement that if an individual to whom services and supports are to be provided has a legally authorized representative, the representative be involved in determining which services and supports the individual will receive; and a requirement that if services or supports are declined, the decision to decline is clearly documented.

Requires DADS to ensure that local mental retardation authorities are informing and counseling individuals and their legally authorized representatives, if applicable, about all program and service options for which the individuals are eligible.

Requires DADS, in cooperation with HHSC, to educate the public on the availability of home and community-based services under a Medicaid state plan program and under a Section 1915(c) waiver program; and the various service delivery options available under the Medicaid program.

Requires DADS to post on its Internet website historical data on the percentages of individuals who elect to receive services under a program for which DADS maintains an interest list once their names reach the top of the list.

Requires HHSC, in cooperation with DADS, to prepare a written report regarding individuals who receive long-term care services in nursing facilities under the medical assistance program, and requires the report use existing data to identify the reasons medical assistance recipients of long-term care services are placed in nursing facilities as opposed to having such services in a home or community-based setting; the types of medical assistance services recipients residing in nursing facilities typically receive and certain factors; community-based services and supports available under a Medicaid state plan program or under certain medical waivers granted for which recipients residing in nursing facilities may be eligible; and ways to expedite recipients' access to community-based services and supports for which interest lists or waiting lists exist.

Requires HHSC, not later than September 1, 2012, to submit the report together with HHSC's recommendations addressing options for expediting access to community-based services and supports by recipients to the governor, the Legislative Budget Board, and certain legislative committees.

Requires the executive commissioner of HHSC, as soon as practicable after the legislation's effective date, to apply for and pursue amendments from the Centers for Medicare and Medicaid Services, or any other appropriate federal agency, to the community living assistance and support services waiver and the home and community-based services program waiver to authorize the provision of personal attendant services through the programs operated under those waivers.

Childress County Hospital District Nursing Home Facility—S.B. 628

by Senator Duncan—House Sponsor: Representative Chisum

Currently, Section 285.101 (Facilities or Services for Elderly or Disabled) of the Texas Health and Safety Code authorizes a hospital district in counties with a population of 35,000 or less or in areas not delineated as urban areas to construct, acquire, own, operate, enlarge, improve, furnish, or equip a nursing home facility. While statute allows them to operate a nursing home facility, the enabling legislation for the Childress County Hospital District does not provide clear authority to issue bonds to fund a nursing home facility project. This bill:

Authorizes the Childress County Hospital District to acquire a nursing home facility and to issue general obligation and revenue bonds and other notes for the funding of such a project.

Medicaid Fraud Prevention and Health Care Provider Oversight and Efficiency—H.B. 1720

by Representative John Davis—Senate Sponsor: Senators Patrick and Nelson

In Texas, several entities, some of which include the Health and Human Services Commission's Office of the Inspector General (OIG), the Office of the Attorney (OAG) Medicaid Fraud Control Unit, the OAG Medicaid Fraud Division, and health and human services agencies, coordinate their efforts to address fraud in Medicaid and in the health care system. Additionally, enacted legislation and state agency rules have aimed at addressing and reducing Medicaid fraud, and the Patient Protection and Affordable Care Act has provisions to combat fraud. Current statute also requires each managed care organization (MCO) that provides or arranges for the provision of health care services to an individual under a government-funded program to have a special investigative (unit) within the MCO to investigate fraud and other types of program abuse by recipients and service providers.

In addition to protecting the health care system from fraud, current statute also provides protections for populations that certain health care facilities and providers, such as long-term care facilities and providers, serve by providing access to the criminal history record information of certain persons, barring employment of those convicted of certain offenses, providing training to providers and facilities, and assessing administrative penalties for certain actions. Additional methods to improve the prevention and detection of fraud in Medicaid and the health care system are needed and that more safeguards to protect populations served, such as the elderly and persons with disabilities, are necessary. This bill:

Entitles OIG to obtain criminal history record information from the Department of Public Safety of the State of Texas (DPS) or from any law enforcement or criminal justice agency that relating to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program, and includes persons to whom information from DPS may relate.

Provides that, if a provider under the Medicaid or child health plan program provides a referral for or orders health care services for a recipient or enrollee, as applicable, at the direction or under the supervision of another provider, and the referral or order is based on the supervised provider's evaluation of the recipient or enrollee, the names and associated national provider identifier numbers of the supervised provider and the supervising provider must be included on any claim for reimbursement submitted by a provider based on the referral or order.

Requires OIG, in addition to other authorized instances, to impose without prior notice a hold on payment of claims on receipt of reliable evidence that the circumstances giving rise to the hold on payment involve fraud or willful misrepresentation under the state Medicaid program.

Redefines "participating agency."

Authorizes a participating agency to submit to another participating agency a written request for certain information, including a health care professional's criminal history record held by a participating agency, and authorizes a participating agency to enter into a memorandum of understanding or agreement with another participating agency for the purpose of exchanging criminal history record information relating to a health care professional that both participating agencies are authorized to access.

Requires an MCO unit or the entity with which the MCO contracts, as appropriate, if the unit or entity discovers fraud or abuse in the Medicaid program or the child health plan program to immediately notify OIG and OAG; subject to certain provisions, begin payment recovery efforts; and ensure that those efforts are in accordance with certain applicable rules.

Prohibits the unit or the contracted entity from engaging in payment recovery efforts in certain circumstances if the amount to be recovered exceeds \$100,000, and after notification, OIG or OAG notifies the unit or contracted entity that the unit or contracted entity is not authorized to proceed with recovery efforts.

Authorizes an MCO to retain any money recovered by the unit or contracted entity, and requires an MCO to submit a quarterly report to OIG detailing the amount of money recovered.

Requires the executive commissioner of HHSC to adopt rules necessary to implement these provisions, including adopting rules establishing due process procedures that MCOs must follow when engaging in payment recovery efforts.

Requires HHSC, not later than December 1 of each year, to submit a report to the legislature relating to the amount of money recovered during the preceding 12-month period as a result of investigations and recovery efforts made by units or contracted entities and specifying the amount retained by each MCO.

Requires HHSC, to the extent required under federal law, to establish a program under which HHSC contracts with one or more recovery audit contractors for purposes of identifying underpayment and overpayments under the Medicaid program and recovering the overpayments.

Requires the executive commissioner to adopt rules for prohibiting a person from participating in the child health plan program or in the medical assistance program as a health care provider for a reasonable period, as determined by the executive commissioner, if the person fails to repay overpayments under the appropriate program; or owns, controls, manages, or is otherwise affiliated with and has financial, managerial, or administrative influence over a provider who has been suspended or prohibited from participating in the appropriate program.

Defines "home and community support services agency administrator" and "administrator."

Provides that a temporary home and community support services agency (HCSSA) license is effective as provided by rules adopted by the executive commissioner.

Requires DADS, after a survey of an HCSSA by DADS, to provide the HCSSA administrator with certain notice of the official findings of the survey, information, and documents.

Prohibits DADS, with certain exceptions, from renewing an initial HCSSA license unless DADS has conducted an initial on-site survey of the agency.

Requires DADS at least semiannually to provide joint training for HCSSAs and surveyors on subjects that address the 10 most common violations of federal or state law by HCSSAs, and authorizes DADS to charge an HCSSA a fee, not to exceed \$50 per person, for the training.

Requires the license holder, if certain application information as specified by executive commissioner rule changes after the applicant submits an application to DADS for a license under Chapter 142 (Home and Community Support Services), Health and Safety Code, or after DADS issues the license, to report the change to DADS and pay a fee not exceed \$50 not later than the time specified by executive commissioner rule, and requires the executive commissioner to establish certain rules regarding a change in application.

Authorizes DADS to deny a license application or suspend or revoke the license of certain persons, including one who violates Section 102.001 (Soliciting Patients; Offense), Occupations Code.

Authorizes the executive commissioner to adopt rules governing the duties and responsibilities of HCSSA administrators, and requires the executive commissioner by rule to set minimum standards for licensed HCSSAs.

Requires DADS, in making the required evaluation of the background and qualifications of certain persons in the license or renewal application process relating to convalescent and nursing homes and related institutions, to require the applicant or license holder to file a sworn affidavit of a satisfactory compliance history and any other information

required by DADS to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant or license holder and certain other persons operated an institution at any time before, rather than during the five-year period preceding, the date on which the application is made; and authorizes DADS to consider and evaluate that compliance history.

Authorizes DADS to require the applicant or license holder to file information relating to the history of the financial condition of the applicant or license holder and certain other persons with respect to an institution operated in another state or jurisdiction at any time before, rather than during the five-year period preceding, the date on which the application is made.

Extends the authorized exclusion of a person's eligibility for a license to extend throughout the person's lifetime or existence.

Redefines "nurse aide registry" and defines "financial management services agency" and "individual employer."

Entitles certain entities, including a financial management services agency on behalf of an individual employer, to obtain from DPS criminal history record information maintained by DPS that relates to certain persons, including a person who is an applicant for employment by or an employee of an individual employer; and requires a financial management services agency to forward such information received to the individual employer requesting the information.

Prohibits certain entities, including an individual employer, from employing an applicant if the individual employer determines, as a result of a criminal history check, that the applicant has been convicted of certain offenses that bar employment or that a conviction is a contraindication to employment with the consumers the individual employer serves; and requires an individual employer to discharge any employee whose criminal history check reveals such convictions.

Sets forth certain procedures for an individual employer to obtain an applicant's or employee's criminal history record, which is identical to a facility's procedure, and for how a financial management services agency or the individual employer is to proceed if it is discovered that the person has a criminal history, which is identical to the procedure for a facility.

Requires DPS to give a person who is notified by a facility or individual employer that a conviction may bar him or her from employment or may be a contraindication to employment the opportunity to be heard concerning the accuracy of the criminal history record and to notify the facility or individual employer if inaccurate information is discovered.

Adds that an individual employer, as with a facility, may not employ a person for whom the entity is entitled to obtain criminal history record information if the person has been convicted of certain offenses and that an individual employer may not employ a person in a position the duties of which involve direct consumer contact before the fifth anniversary of the date of conviction of certain offenses.

Provides that the criminal history records are for the exclusive use of certain entities, including the financial management services agency on behalf of the individual employer and the individual employer, and provides that all criminal records and reports and the information they contain that are received by certain entities, including by the financial management services agency, are privileged information.

Provides that certain entities, including a financial management services agency or an individual employer, are not civilly liable for failure to comply with certain provisions if a good faith effort to comply was made.

Authorizes DADS to charge a fee not to exceed \$50 for training for surveyors and providers on subjects that address the 10 most common violations by long-term care facilities of federal or state law.

Requires the executive commissioner of HHSC by rule to establish criteria for HHSC or OIG to suspend a provider's billing privileges under the medical assistance program, in addition to certain other actions, based on certain conditions.

Requires the executive commissioner of HHSC, as a condition of medical assistance program provider eligibility, by rule to require a provider or a person applying to enroll as a provider to disclose certain information and require disclosure by persons applying for enrollment as providers and provide for screening of applicants for enrollment in conformity and compliance with certain federal requirements.

Requires the executive commissioner of HHSC, in adopting rules, to adopt rules as authorized by and in conformity with certain federal law for the imposition of a temporary moratorium on enrollment of new providers, or to impose numerical caps or other limits on the on the enrollment of providers, that HHSC or OIG, in consultation with HHSC, determines have a significant potential for fraud, waste, or abuse.

Provides that a person commits a violation if the person fails to maintain documentation to support a claim for payment in accordance with certain specified requirements or engages in any other conduct defines as a violation of the medical assistance program, and provides information regarding penalties for such a violation.

Authorizes a medical assistance provider to order or otherwise authorize the provision of home health services for a recipient only if the provider has conducted an in-person evaluation of the recipient within the 12-month period preceding the date with the order or other authorization was issued.

Requires a physician, physician assistant, nurse practitioner, clinical nurse specialist, or certified nurse-midwife that orders or otherwise authorizes the provision of durable medical equipment for a recipient to certify on the order or other authorization that the person conducted an in-person evaluation of the recipient within the 12-month period preceding the date or other authorization was issued.

Authorizes DADS to assess an administrative penalty against a person who commits violations related to adult day-care facilities; makes a false statement of a material fact that the person knows or should know is false in regard to certain situations; refuses to allow a DADS representative to inspect certain documents or premises; willfully interferes with the work of a DADS representative or the enforcement related to adult day-care facilities; willfully interferes with a DADS representative preserving evidence of a violation; fails to pay a penalty assessed within a given timeframe; and fails to notify DADS of a change of ownership as required.

Sets forth certain guidelines and requirements regarding these violations and related penalties; and authorizes DADS to deny, suspend, or revoke the license of an applicant or holder of a license who has committed certain acts of these described acts.

Sets forth certain requirements, prohibitions, and exceptions regarding a facility's right to correct such described violations before imposition of an administrative penalty.

Requires DADS to issue a preliminary report stating the facts on which it concludes that a violation relating to adult day-care facilities has occurred, requires DADS to give written notice of the report to the person charged with the violation within a certain time frame, and sets forth the content of the notice.

Authorizes the person charged to demonstrate to DADS his or her agreement to the report and the recommended penalty or make a request for a hearing, and sets forth certain guidelines if the violation is subject to correction and subsequent actions relating to the adult day-care facility satisfactorily correcting the issue or not.

Requires the DADS commissioner or the commissioner's designee, if the person charged with the violation consents to the recommended penalty or does not respond timely to a notice, to assess the penalty recommended by DADS.

Requires an administrative law judge (ALJ) to order a hearing to be held before an ALJ and give notice of the hearing if a person assessed a penalty request a hearing.

Requires the ALJ to make findings of fact and conclusions of law regarding the occurrence of a violation, and requires the DADS commissioner or the commissioner's designee based on those findings and conclusions and the ALJ's recommendations, by order to find that a violation has occurred and assess an administrative penalty or a violation has not occurred.

Requires the DADS commissioner or the commissioner's designee to give notice of the findings to the person charged with a violation, and if the commissioner or the commissioner's designee finds that a violation has occurred, the commissioner or the commissioner's designee is required to give the charged person written notice of certain information.

Sets forth certain provisions relating to the penalty and finding that a violation has occurred, such as the date by which a penalty is to be paid, the filing of a petition for judicial review, failure to pay, interest accrual, and the circumstance that the penalty is reduced or the assessment of a penalty is not upheld on judicial review.

Medicaid Nonemergency Medical Transportation Services—H.B. 2136

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Medicaid assures medical transportation for nonemergency medical needs through the Medical Transportation Program in Texas. The program was recently transferred from the Texas Department of Transportation to HHSC to administer the program. Regional contracted brokers provide transportation to certain Medicaid-eligible recipients to access nonemergency medical services, such as attending a doctor's appointment, through the program. This bill:

Defines "regional contracted broker."

Requires the executive commissioner of the HHSC (executive commissioner), not later than August 31, 2013, to adopt rules to ensure the safe and efficient provision of nonemergency transportation services under the medical transportation program by regional contracted brokers and subcontractors of regional contracted brokers.

Provides that the rules must include provisions relating to the minimum standards regarding the physical condition and maintenance of motor vehicles used to provide the services; verifying that each motor vehicle operator providing or seeking to provide services has a valid driver's license; checking the driving record information maintained by DPS of each such motor vehicle operator; checking the public criminal record information maintained by DPS of each such motor vehicle operator; and certain training requirements for motor vehicle operators providing the services through a regional contracted broker.

Requires HHSC to require compliance with the adopted rules in any contract entered into with a regional contracted broker to provide nonemergency transportation services under the medical transportation program.

Medicaid Recipients' Use of Emergency Rooms for Non-Emergent Conditions—H.B. 2245

by Representatives Zerwas and Shelton—Senate Sponsor: Senator Nelson

Currently, many Medicaid clients use the emergency room for non-emergent conditions that could be treated in a primary care setting, such as a doctor's office or clinic, where treatment costs are less costly. This bill:

Requires HHSC to conduct a study to evaluate physician incentive programs that attempt to reduce hospital emergency room use for non-emergent conditions by recipients under the medical assistance program.

Requires each physician incentive program evaluated in the study to be administered by a health maintenance organization participating in the STAR or STAR+PLUS Medicaid managed care program and provide incentives to primary care providers who attempt to reduce emergency room use for non-emergent conditions by recipients.

Requires that the study evaluate the cost-effectiveness of each component included in a physician incentive program and any change in statute required to implement each component within the Medicaid fee-for-service or primary care case management model.

Requires the executive commissioner of HHSC not later than August 31, 2012, to submit to the governor and the Legislative Budget Board a report concerning the study's findings.

Requires the executive commissioner of HHSC by rule to establish a physician incentive program designed to reduce the use of hospital emergency room services for non-emergent conditions by recipients under the medical assistance program, and provides that the executive commissioner of HHSC may include only the program components identified as cost-effective in the study.

Requires the executive commissioner of HHSC, if the physician incentive program includes the payment of an enhanced reimbursement rate for routine after-hours appointments, to implement controls to ensure that the after-hours services bill are being provided outside of normal business hours.

Provider and Medicaid Oversight, Accountability, and Efficiency—S.B. 223

by Senator Nelson—House Sponsor: Representative Naomi Gonzalez

Interested parties contend that state oversight of long-term care and similar providers, such as HCSSAs, nursing institutions, adult day care facilities, and their employees who serve the elderly and disabled populations needs to be improved. Current methods of oversight include licensing requirements, adopted minimum standards, criminal history record checks, employment bans, training, and disciplinary procedures.

Additionally, interested parties assert that the Medicaid program needs enhanced oversight and more tools for fraud prevention. The federal Patient Protection and Affordable Care Act includes provisions to assist in providing oversight and combating fraud in Medicaid, some of which relate to a provider screening process and a new provider enrollment process. This bill:

Defines "home and community support services agency administrator" and "administrator."

Provides that a temporary HCSSA license is effective as provided by rules adopted by the executive commissioner of HHSC, rather than the Texas Board of Health.

Requires DADS, after a DADS survey of an HCSSA, to provide the HCSSA administrator with certain notice and documents.

Prohibits DADS, with certain exceptions, from renewing an initial HCSSA license unless DADS has conducted an initial on-site survey of the agency.

Requires DADS, at least semiannually, to provide joint training for HCSSAs and surveyors on subjects that address the 10 most common violations of federal or state law by HCSSAs, and authorizes DADS to charge an HCSSA a fee, not to exceed \$50 per person, for the training.

Requires the license holder, if certain application information as specified by executive commissioner rule changes after the applicant submits an application to DADS for a license under Chapter 142 (Home and Community Support

Services), Health and Safety Code, or after DADS issues the license, to report the change to DADS and pay a fee not exceeding \$50 not later than the time specified by executive commissioner rule, and requires the executive commissioner to establish certain rules regarding a change in application.

Authorizes DADS to deny a license application or suspend or revoke the license of certain persons, including one who violates Section 102.001 (Soliciting Patients; Offense), Occupations Code.

Authorizes the executive commissioner of HHSC to adopt rules governing the duties and responsibilities of HCSSA administrators, and requires the executive commissioner by rule to set minimum standards for licensed HCSSAs.

Provides that the attorney general is no longer required to prepare annually and submit to the required persons a full report of the operation and administration of its responsibilities under Chapter 242 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code.

Requires DADS, in making the required evaluation of the background and qualifications of certain persons in the license or renewal application process relating to convalescent and nursing homes and related institutions, to require the applicant or license holder to file a sworn affidavit of a satisfactory compliance history and any other information required by DADS to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant or license holder and certain other persons operated an institution at any time before, rather than during the five-year period preceding, the date on which the application is made; and authorizes DADS to consider and evaluate that compliance history.

Authorizes DADS to require the applicant or license holder to file information relating to the history of the financial condition of the applicant or license holder and certain other persons with respect to an institution operated in another state or jurisdiction at any time before, rather than during the five-year period preceding, the date on which the application is made.

Extends the authorized exclusion of a person for eligibility of a license to extend throughout the person's lifetime or existence.

Redefines "nurse aide registry" and defines "financial management services agency" and "individual employer."

Entitles certain entities, including a financial management services agency on behalf of an individual employer, to obtain from DPS criminal history record information maintained by DPS that relates to certain persons, including a person who is an applicant for employment by or an employee of an individual employer; and requires a financial management services agency to forward such information received to the individual employer requesting the information.

Prohibits certain entities, including an individual employer, from employing an applicant if the individual employer determines, as a result of a criminal history check, that the applicant has been convicted of certain offenses that bar employment or that a conviction is a contraindication to employment with the consumers the individual employer serves; and requires an individual employer to discharge any employee whose criminal history check reveals such convictions.

Sets forth certain procedures for an individual employer to obtain an applicant's or employee's criminal history record, which is identical to a facility's procedure, and for how a financial management services agency or the individual employer is to proceed if it is discovered that the person has a criminal history, which is identical to the procedure for a facility.

Requires DPS to give a person, who is notified by a facility or individual employer that a conviction may bar him or her from employment or may be a contraindication to employment, the opportunity to be heard concerning the

accuracy of the criminal history record and to notify the facility or individual employer if inaccurate information is discovered.

Adds that an individual employer, as with a facility, may not employ a person for whom the entity is entitled to obtain criminal history record information who has been convicted of certain offenses and that an individual employer may not employ a person in a position the duties of which involve direct consumer contact before the fifth anniversary of the date of conviction of certain offenses.

Provides that the criminal history records are for the exclusive use of certain entities, including the financial management services agency on behalf of the individual employer and the individual employer, and provides that all criminal records and reports and the information they contain that are received by certain entities, including by the financial management services agency, are privileged information.

Provides that certain entities, including a financial management services agency or an individual employer, are not civilly liable for failure to comply with certain provisions if a good faith effort to comply was made.

Entitles HHSC's OIG to obtain criminal history record information from DPS or from any law enforcement or criminal justice agency that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program, and includes persons to whom the criminal history record may relate.

Requires OIG, in addition to other authorized instances, to impose without prior notice a hold on payment of claims on receipt of reliable evidence that the circumstances giving rise to the hold on payment involve fraud or willful misrepresentation under the state Medicaid program.

Redefines "participating agency."

Authorizes a participating agency to submit to another participating agency written request for certain information, including a health care professional's criminal history record held by a participating agency, and authorizes a participating agency to enter into a memorandum of understanding or agreement with another participating agency for the purpose of exchanging certain criminal history record information.

Requires the executive commissioner of HHSC by rule to establish criteria for HHSC or OIG to suspend a provider's billing privileges under the medical assistance program, in addition to certain other actions, based on certain conditions.

Requires the executive commissioner of HHSC, as a condition of medical assistance program provider eligibility, by rule to require a provider or a person applying to enroll as a provider to disclose certain information and require disclosure by persons applying for enrollment as providers and provide for screening of applicants for enrollment in conformity and compliance with certain federal requirements.

Requires the executive commissioner of HHSC, in adopting rules, to adopt rules as authorized by and in conformity with certain federal law for the imposition of a temporary moratorium on enrollment of new providers, or to impose numerical caps or other limits on the on the enrollment of providers, that HHSC or OIG, in consultation with HHSC, determines have a significant potential for fraud, waste, or abuse.

Provides that a person commits a violation if the person fails to maintain documentation to support a claim for payment in accordance with certain specified requirements or engages in any other conduct defined as a violation of the medical assistance program, and provides information regarding penalties for such a violation.

Authorizes DADS to assess an administrative penalty against a person who commits violations related to adult day-care facilities; makes a false statement of a material fact that the person knows or should know is false in regard to

certain situations; refuses to allow a DADS representative to inspect certain documents or premises; willfully interferes with the work of a DADS representative or the enforcement related to adult day-care facilities; willfully interferes with a DADS representative preserving evidence of a violation; fails to pay a penalty assessed within a given timeframe; and fails to notify DADS of a change of ownership as required.

Sets forth certain guidelines and requirements regarding these violations and related penalties; and authorizes DADS to deny, suspend, or revoke the license of an applicant or holder of a license who has committed certain acts of these described acts.

Provides certain requirements, prohibitions, and exceptions regarding a facility's right to correct such described violations before imposition of an administrative penalty.

Requires DADS to issue a preliminary report stating the facts on which it concludes that a violation relating to adult day-care facilities has occurred, requires DADS to give written notice of the report to the person charged with the violation within a certain time frame, and sets forth the content of the notice.

Authorizes the person charged to demonstrate to DADS his or her agreement to the report and the recommended penalty or make a request for a hearing, and sets forth certain guidelines if the violation is subject to correction and subsequent actions relating to the adult day-care facility satisfactorily correcting the issue or not.

Requires the DADS commissioner or the commissioner's designee, if the person charged with the violation consents to the recommended penalty or does not respond timely to a notice, to assess the penalty recommended by DADS.

Requires an administrative law judge (ALJ) to order a hearing to be held before an ALJ and give notice of the hearing if a person assessed a penalty requests a hearing.

Requires the ALJ to make findings of fact and conclusions of law regarding the occurrence of a violation, and requires the DADS commissioner or the commissioner's designee based on those findings and conclusions and the ALJ's recommendations, by order to find a violation has occurred and assess an administrative penalty or a violation has not occurred.

Requires the DADS commissioner or the commissioner's designee to give notice of the findings to the person charged with a violation, and if the commissioner or the commissioner's designee finds that a violation has occurred, the commissioner or the commissioner's designee is required to give the person charge written notice of certain information.

Sets forth certain provisions relating to the penalty and finding that a violation has occurred, such as the date by which a penalty is to be paid, the filing of a petition for judicial review, failure to pay, interest accrual, and the circumstance that the penalty is reduced or the assessment of a penalty is not upheld on judicial review.

Authorizes DADS to charge a fee not to exceed \$50 for training for surveyors and providers on subjects that address the 10 most common violations of federal or state law by long-term care facilities.

Telemedicine, Telehealth, and Home Telemonitoring Services—S.B. 293

by Senators Watson and Nelson—House Sponsor: Representative John Davis

Telemonitoring refers to the remote monitoring of patient's health data and transmission of the data to a health care provider. Currently, the Texas Medicaid program does not reimburse health care providers for telemonitoring services. This bill:

Defines "home telemonitoring service," "telehealth service," and "telemedicine medical services."

Requires HHSC by rule to develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using certain services, including telehealth services.

Requires the executive commissioner of HHSC by rule, in developing the system, to perform certain actions, including consulting with DSHS and the telemedicine and telehealth advisory committee to establish certain procedures; establishing a separate provider identifier for certain services providers, including telehealth services providers and home telemonitoring services provider; and establish a separate modifier for certain services eligible for reimbursement, including telehealth services and home telemonitoring services; and removes certain actions, such as establishing procedures to establish studies for telemedicine medical service delivery and establishing certain pilot programs.

Prohibits HHSC from requiring that a service be provided to a patient through certain services, including telehealth services, when the service can reasonably be provided through certain other means, and provides that the authorization of the provision of any service to a patient through certain services, including telehealth services, at the patient's request is not prohibited.

Authorizes HHSC, in the rules adopted related to participation and reimbursement of telemedicine medical service providers and telehealth services providers under Medicaid, to use certain terminology.

Prohibits HHSC from reimbursing a health care facility for certain services, including telehealth services, provided to a Medicaid recipient unless the facility complies with certain minimum standards.

Revises the topics on which HHSC is required to report to include telehealth services and home telemonitoring services and related information.

Requires HHSC and the Telecommunications Infrastructure Fund Board by joint rule to establish and adopt minimum standards for an operating system used in the provision of certain services, adding telehealth services or telemonitoring services, by a health care facility participating in the state Medicaid program.

Defines "home health agency" and "hospital."

Requires the executive commissioner of HHSC, if HHSC determines that establishing a statewide program that permits reimbursement under the statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, to establish the program.

Requires that that program provide that home telemonitoring services be available only to persons who are diagnosed with one or more of certain conditions and exhibit two or more of certain risk factors; ensure that the clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the patient's physician; and ensure that the program does not duplicate certain disease management program services.

Authorizes HHSC to discontinue the program and stop providing reimbursement under the state Medicaid program for home telemonitoring services, if, after implementation, HHSC determines that the program is not cost-effective.

Requires HHSC to determine whether the provision of home telemonitoring services to persons who are eligible under both the Medicaid and Medicare programs achieves cost savings for the Medicare program.

Requires the executive commissioner of HHSC to establish the Telemedicine and Telehealth Advisory Committee, rather than the Telemedicine Advisory Committee, to assist HHSC in certain tasks, including monitoring the type of

consultations and other services receiving reimbursement, and removes the task of evaluating policies for certain telemedicine medical services or telehealth services pilot programs; and modifies the composition of the advisory committee.

Prohibits HHSC, notwithstanding any other law, from reimbursing providers under the Medicaid program for the provision of home telemonitoring services on or after September 1, 2015.

Repeals the following provisions of the Government Code: Section 531.02161(a) (relating to defining "telemedicine medical services"); Sections 531.0217(a)(3) (relating to defining "telehealth services") and 531.0217(a)(4) (relating to defining "telemedicine medical service"); Section 531.02171 (Telemedicine Pilot Programs), as added by Chapter 661, Acts of the 77th Legislature, Regular Session, 2001; and Section 531.02171 (Telemedicine Medical Services and Telehealth Services Pilot Programs), as added by Chapter 959, Acts of the 77th Legislature, Regular Session, 2001.

Requires HHSC, not later than December 31, 2012, to submit a report to certain persons regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services, and sets forth the required content of the report.

Unlawful Acts Against and Criminal Offenses Involving Medicaid—S.B. 544

by Senator Seliger et al.—House Sponsor: Representative Shelton

Recently, the OAG participated in a lawsuit that resulted in a global settlement to the federal government, Texas, and other participating states relating to adulterated drugs produced in a manufacturing plant in Puerto Rico. This bill:

Defines "material" and "obligation."

Provides that a person commits an unlawful act if the person performs certain actions, including if the person causes to be made a claim, not just knowingly makes a claim, under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner; a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

Modifies the civil penalty for which a person who commits an unlawful act is liable to the state to not less than \$5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a) (Liability for Certain Acts), if that amount exceeds \$5,500, and not more than \$15,500 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$15,000, for each unlawful act committed by the person that results in injury to an elderly person, a person with a disability, or a person younger than 18 years of age; or to not less than \$5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$5,500, and not more than \$11,000 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$11,000 for each unlawful act committed by the person that does not result in such injury to a person.

Requires the court's determination of certain expenses, fees, and costs to be awarded to a private plaintiff receiving a payment from a defendant to be made only after one of certain actions occur, including that the state settles an action with a defendant that the court determines, after a hearing, was fair, adequate, and reasonable.

Prohibits a person from bringing an action for a violation of certain unlawful acts related to Medicaid fraud that is based on the public disclosure of allegations or transactions in certain outlets, including in a criminal or civil hearing in which the state or an agent of the state is a party.

Redefines "original source."

Requires the court, before dismissing a suit for being a barred action, to give the attorney general an opportunity to oppose the dismissal.

Clarifies that a person, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person in the furtherance of an action under Subchapter B (Action by Private Persons), Chapter 36 (Medicaid Fraud Prevention), Human Resources Code, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed, or other efforts taken by the person to stop one or more violations of unlawful acts related to Medicaid fraud, who is entitled to certain entitlements, includes an employee, contractor, or agent.

Provides that person commits an offense if the person performs certain actions, including if the person causes to be made a claim, rather than knowingly makes a claim, under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner; a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

Investigation, Prosecution, and Punishment of Medicaid Fraud—S.B. 688

by Senators Nichols and Nelson—House Sponsor: Representative Creighton et al.

The Medicaid Fraud Control Unit (MFCU) of OAG investigates and prosecutes entities and individuals suspected of defrauding and abusing the Medicaid program. This bill:

Adds Medicaid fraud under Section 35A.02 (Medicaid fraud), Penal Code, to the list of offenses for which felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), Code of Criminal Procedure, may be presented, and not afterward, within seven years from the date of the commission of the offense.

Redefines "authorized peace officer" to include an investigator commissioned by the attorney general under Section 402.009 (Authority to Employ and Commission Peace Officers), Government Code.

Authorizes the state and the defendant, regardless of the plea and whether the punishment is assessed by the judge or the jury, during the punishment phase of the trial of a Medicaid fraud offense, subject to the applicable rules of evidence, to offer evidence not offered during the guilt or innocence phase of the trial concerning the total pecuniary loss to the Medicaid program caused by the defendant's conduct or, if applicable, the scheme or continuing course of conduct of which the defendant's conduct is part.

Authorizes an employee of HHSC's OIG or OAG's MFCU, subject to the applicable rules of evidence, to testify concerning the total pecuniary loss to the Medicaid program and provides that such an employee is subject to cross-examination.

Provides that such evidence offered related to the total pecuniary loss to the Medicaid program may be considered by the or jury in ordering or recommending the amount of any restitution to be made to the Medicaid program or the appropriate punishment for the defendant.

Adds that all information and material subpoenaed or compiled by the OAG in connection with a Medicaid fraud investigation is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other

than the OIG or the OAG or their employees or agents involved in the audit or investigation conducted by the OIG or the attorney general, except that this information may be disclosed to the state auditor's office, law enforcement agencies, and other entities as permitted by other law.

Deletes existing text providing that a person who is an owner, operator, or employee of a group home or certain facilities commits an offense if intentionally, knowingly, recklessly, or with criminal negligence by omission causes a child, elderly individual, or disabled individual who is a resident of the group home or facility to be exploited.

Defines "document."

Defines "child," "elderly individual," "disabled individual," and "exploitation" in Section 32.53 (Exploitation of Child, Elderly Individual, or Disabled Individual), Subchapter D (Other Deceptive Practices), Chapter 32 (Fraud), Penal Code.

Provides that a person commits a felony of the third degree if the person intentionally, knowingly, or recklessly causes the exploitation of a child, elderly individual, or disabled individual, and sets forth certain provisions relating to prosecution of this provision and other sections of the Penal Code which a person may be subject and subsequent sentences.

Provides that OAG, with the consent of the appropriate local county or district attorney, has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under Section 32.53, Penal Code, that involves the Medicaid program.

Defines "high managerial agent."

Provides that a Medicaid fraud offense is a felony of the third degree if it is shown on the trial of the offense that the defendant submitted more than 25 but fewer than 50 fraudulent claims under the Medicaid program and the submission of each claim constitutes prohibited conduct.

Provides that a Medicaid fraud offense is a felony of the second degree if it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under the Medicaid program and the submission of each claim constitutes prohibited conduct.

Provides that, if conduct constituting an offense under Section 35A.02 (Medicaid Fraud), Penal Code, also constitutes an offense under another section of the Penal Code or another provision of law, the actor may be prosecuted under either Section 35A.02, Penal Code, or the other section or provision or both this section and the other section or provision.

Provides that the punishment prescribed for an offense under Section 35A.02, Penal Code, other than the punishment prescribed by Subsection (b)(7) (relating to a Medicaid fraud felony of the first degree), is increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor was a provider or high managerial agent at the time of the offense.

Provides that OAG, with the consent of the appropriate local county or district attorney, has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under Section 35A.02, Penal Code, that involves the Medicaid program.

Provides that a person commits an offense, if with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of certain listed offenses, including an offense under Chapter 35A (Medicaid Fraud), Penal Code.

Repeals Section 22.04(c)(4), Penal Code, which defines "exploitation" for the section.

Medicaid and Child Health Plan Program Rate and Expenditure Disparities Committee—S.B. 1220

by Senator Hinojosa et al.—House Sponsor: Representative Veronica Gonzales

In 2001, the legislature created a committee to review funding disparities in health programs and to develop a strategic plan for eliminating certain disparities in the Medicaid program and the child health plan program between the Texas-Mexico border region and other areas of the state. This bill:

Re-creates the advisory committee on Medicaid and child health plan program rate and expenditure disparities between the Texas-Mexico border region and other areas of the state (committee).

Redefines "committee."

Requires the executive commissioner of HHSC to appoint a committee to develop a strategic plan for eliminating disparities between the Texas-Mexico border region and other areas of the state in certain rates and expenditures in Medicaid and the child health plan program as they relate to certain persons younger than 19 years of age.

Requires the committee to periodically perform the research necessary to analyze and compare certain rates and expenditures and, not later than the date specified by the executive commissioner, produce a report based on the result of that analysis and comparison and make recommendations for addressing the problems created by the disparities.

Requires the executive commissioner of HHSC, not later than December 1, 2011, to appoint nine persons to the advisory committee and sets forth certain requirements of those appointments.

Requires HHSC to measure, rather than requires HHSC to contract with a public university to measure, changes occurring from September 1, 2002, to August 31, 2014, rather than previous dates, in the number of health care providers participating in the Medicaid program or the child health plan program in the Texas-Mexico border region and resulting effects on consumer access to health care and consumer utilization; determine certain factors regarding changes in rates and expenditures; make a recommendation whether Medicaid rate increases should be expanded to include Medicaid services provided to adults in the Texas-Mexico border region; and not later than December 1, 2014, rather than December 1, 2004, submit a report to the legislature.

Provides that the section related to these provisions expires September 1, 2015, rather than September 1, 2011.

Extended Local Behavioral Health Intervention Project—H.B. 35

by Representative Menendez—Senate Sponsor: Senator Van de Putte

H.B. 1232, 81st Legislature, Regular Session, 2009, established a local behavioral health intervention pilot project (pilot project) in Bexar County to address the needs of children and youth who are at risk of alternate placement due to behavioral health issues and provide for diversion to a system of care including a behavioral health treatment placement for those individuals. The pilot project aims to facilitate collaboration among parents, educators, state juvenile justice and health and human services agencies, and health care and mental health care providers in order to provide informed, coordinated, and collaborative care for such children and youth. The pilot project is set to expire September 1, 2011. This bill:

Requires that the local mental health authority involved in the pilot project, not later than December 1, 2012, rather than December 1, 2010, submit a report to DSHS regarding the pilot project, including a comprehensive analysis of the efficacy of the pilot project and the local authority's findings and recommendations.

Extends the pilot project until September 1, 2013, rather than September 1, 2011.

Transportation of Certain Mental Health Patients—H.B. 167

by Representative Raymond—Senate Sponsor: Senator Zaffirini

Currently, a court may authorize certain entities to transport a committed patient or a patient detained under certain circumstances to the designated mental health facility, but the statute does not provide a prioritized list of such entities. This bill:

Prioritizes the entities that the court may authorize to transport a committed patient or a patient detained under Section 573.022 (Emergency Admission and Detention) or Section 574.023 (Apprehension under Order), Health and Safety Code, in the following order: a special officer for mental health assignment; the facility administrator of the designated mental health facility, unless the administrator notifies the court of certain circumstances; a relative or other responsible person who meets certain conditions; a representative of the local mental health authority, who shall be reimbursed by the county, unless the representative notifies the court of certain circumstances; a qualified transportation service provider selected from the list established and maintained by the appropriate commissioners court; or the sheriff or constable.

Authorizes a special officer for mental health assignment, the facility administrator of the designated mental health facility, or the sheriff or constable, who is authorized by the court to transport a person to a mental health facility, to contract with a qualified transportation service provider that is included on the list established and maintained by the appropriate commissioners court.

Authorizes the commissioners court of a county to establish and maintain a list of qualified transportation service providers that a court may authorize or with whom a person may contract to transport a person to a mental health facility and establish an application procedure for inclusion on the list.

Authorizes the commissioners court of a county to contract with qualified transportation service providers on terms acceptable to the county, and to allow officers and employees of the county to utilize persons on the list on a rotating basis if the officer or employee is authorized to provide such transportation and chooses to utilize such a provider in accordance with appropriate terms.

Authorizes the commissioners court of a county to ensure that the list is made available to persons authorized to provide such transportation.

Requires DSHS to prescribe uniform standards related to the qualified transportation service provider list and prescribing requirements relating to how the transportation of a person to a mental health facility by a qualified transportation service provider is provided.

Representation of and by the State in Mental Health Proceedings—H.B. 3342

by Representative Naishtat—Senate Sponsor: Senator Rodriguez

Currently, in a hearing held related to the Texas Mental Health Code, the county attorney is required to represent the state or, if the county has no county attorney, the district attorney, the criminal district attorney, or a court-appointed special prosecutor is required to represent the state, unless otherwise specified. This bill:

Clarifies that the current provision requiring certain local attorneys to represent the state in a hearing held related to the Texas Mental Health Code also includes a hearing held related to the administration of medication to a patient under order for inpatient mental health services.

Requires that a petition for a writ of habeas corpus arising from a commitment order be filed in the court of appeals for the county in which the order is entered, and requires the state to be made a party in such a habeas corpus proceeding, with the appropriate attorney representing the state.

Requires an appropriate attorney, in a habeas corpus proceeding in which a state inpatient mental health facility or a physician employed by a state inpatient mental health facility is a party as a result of enforcing a commitment order, to represent the facility or physician, or both the facility and physician if both are parties unless the attorney determines that representation violates the Texas Disciplinary Rules of Professional Conduct.

DFPS Employment Applicant Assessment Tools and Salary Study—H.B. 753

by Representative Raymond—Senate Sponsor: Senator Zaffirini

Interested parties state that through various efforts, DFPS has the ability to hire staff quickly and has enhanced its training procedures, and that DFPS should now focus on instituting policies that stress efficacy in the hiring process and enhance the quality of the person hired, especially in the child protective services division (CPS). This bill:

Requires DFPS to use special assessment tools in screening CPS employment applicants in order to match an applicant with the position in the division for which an applicant would be best suited based on certain criteria.

Requires DFPS to give favorable consideration to an applicant for an entry-level caseworker position who has a master's degree or bachelor's degree in social work over certain other applicants.

Requires DFPS to study the salaries of each type of child protective services caseworker to determine the role salary plays in the recruitment and retention of caseworkers and in the turnover rate for each type of caseworker and to report the results of the study and any recommendations to the appropriate state legislative and executive entities not later than December 1, 2012.

Requires HHSC to consider contracting with an institution of higher education to perform the required study.

Notice of Change of Child Placement—H.B. 807

by Representative Parker—Senate Sponsor: Senator Nelson

Sometimes a child in foster care is removed from the child's foster home without much notice, even if an emergency does not exist, which may not provide adequate time to prepare a child before removal. This bill:

Requires DFPS, at least 48 hours before the residential child care facility is changed, to provide written notice to the residential child care facility and any child-placing agency involved with a child before DFPS may change the child's residential child care facility, except in the case of an emergency or as otherwise provided by a court order or agreed to by a residential child care facility or child-placing agency.

Statutory References to Department of Family and Protective Services—H.B. 841

by Representative Naomi Gonzalez—Senate Sponsor: Senator Harris

Past legislation transferred many of the powers and duties of the Department of Protective and Regulatory Services (DPRS) to DFPS. Not all statutory references to the DPRS in statute were changed to DFPS. This bill:

Changes references in the Family Code from DPRS to DFPS.

Authorization Agreement to Make Certain Decisions Regarding a Child—H.B. 848

by Representatives Guillen and Raymond—Senate Sponsor: Senator Zaffirini

When parents are under investigation by CPS, they sometimes seek to place their child with a trusted community member or extended family member. Current law does not authorize a parent to enter into an authorization agreement with certain persons with whom a child is placed under a parental child safety placement agreement to allow the person to perform certain acts with regard to the child. In 2009, the 81st Legislature passed S.B. 1598, relating to an agreement authorizing a nonparent relative of a child to make certain decisions regarding the child and

providing a penalty, which allowed for direct kin to act on behalf of the child once the parent signed an authorization agreement and CPS approved. This bill:

Provides that Chapter 34 (Authorization Agreement for Nonparent Relative), Family Code, applies to certain authorization agreements between a parent of a child and certain persons, including an authorization agreement between a parent of a child and the person with whom the child is placed under a parental child safety placement agreement.

Provides that such authorization agreements do not confer on certain persons, including a relative or other person with whom the child is placed under a child safety placement agreement, the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

Authorizes a parent to enter into an authorization agreement with a relative or other person with whom a child is placed under a parental child safety placement agreement approved by DFPS to allow the person to perform certain acts with regard to the child during an investigation of abuse or neglect or while DFPS is providing services to the parent.

Reporting Requirements Concerning Certain Missing Persons—H.B. 943

by Representative Dukes—Senate Sponsor: Senator Nelson

Current DFPS policy contains certain protocols in the event that a child in the state's conservatorship is missing, but that process is not in statute. Current statute requires local law enforcement agencies, on receiving a report of a missing child or a missing person, to enter the information into certain reporting systems for missing persons, but that statute does not provide a specific time frame in which to do so. This bill:

Requires DFPS, if a child in DFPS's managing conservatorship is missing from the child's substitute care provider, including a child who is abducted or is a runaway, to notify, not later than 24 hours after the time DFPS learns the child is missing or as soon as possible if a person cannot be notified within 24 hours, the appropriate law enforcement agencies; the court with jurisdiction over DFPS's managing conservatorship of the child; the child's attorney ad litem; the child's guardian ad litem; and the child's parent unless determined otherwise that the child is missing.

Requires DFPS to notify the aforementioned persons when the child returns to the child's substitute care provider not later than 24 hours after the time DFPS learns that the child has returned or as soon as possible if a person entitled to notice cannot be notified within 24 hours.

Requires DFPS to make continuing efforts to determine the location of a missing child until the child returns to substitute care, including contacting certain persons and agencies on a monthly basis and conducting a supervisory-level review of the case on a quarterly basis if the child is 15 years of age or younger to determine whether sufficient efforts have been made to locate the child and whether other action is needed.

Requires DFPS to document certain actions and discussions in the missing child's case record.

Requires DFPS, after the child returns to the child's substitute care provider, to interview the child regarding certain topics and, not later than 24 hours after the time of disclosure, report to an appropriate law enforcement agency any disclosure made by a child that indicates that the child was a victim of a crime during the time the child was missing, but does not require DFPS to interview the missing child, if at the time the child returns, DFPS knows that the child was abducted and another agency is investigating the abduction.

Requires local law enforcement agencies, on receiving a report of a missing child or a missing person, to immediately, but not later than two hours after receiving the report, to enter the name of the child or person into the clearinghouse, the national crime information center missing person file if the child or person meets the center's criteria, and the Alzheimer's Association Safe Return crisis number, if applicable, with all available identifying features and all available information describing any person reasonably believed to have taken or retained the missing child or missing person.

Foster Children's Bill of Rights and Credit Report—H.B. 2170

by Representatives Raymond and Dukes—Senate Sponsors: Senators Davis and Uresti

According to DFPS, there were over 27,000 children in foster care throughout Texas. Interested parties contend that children in foster care are at a high risk of being victims of identity theft. This bill:

Defines "agency foster group home," "agency foster home," "facility," "foster group home," "foster home," "foster care," and "foster children's bill of rights."

Establishes that it is the state's policy that each child in foster care be informed of the child's rights provided by state and federal law or policy that relate to abuse, neglect, exploitation, discrimination, and harassment; food, clothing, shelter, and education; medical, dental, vision, and mental health services; emergency behavioral intervention; placement with the child's siblings and contact with members of the child's family; privacy and searches; participation in school-related extracurricular or community activities; interaction with persons outside the foster care system; contact and communication with caseworkers, attorneys ad litem, guardians ad litem, and court-appointed special advocates; religious services and activities; confidentiality of the child's records; job skills, personal finances, and preparation for adulthood; participation in a court hearing that involves the child; participation on the development of service and treatment plans; if the child has a disability, the advocacy and the protection of the rights of a persons with that disability; and any other matter affecting the child's ability to receive care and treatment in the least restrictive environment that is most like a family setting, consistent with the best interests and needs of the child.

Sets forth the required methods by which each child placed in foster care is to be informed of the foster children's bill of rights.

Authorizes a child placed in foster care, at the child's option, to sign a document acknowledging the child's understanding of the foster children's bill of rights after the DFPS informs the child of the rights in the methods required.

Requires an agency foster group home, agency foster home, foster group home, foster home, or other facility in which a child is placed in foster care to provide a copy of the foster children's bill of rights in the required form to the child on the child's request.

Requires DFPS to promote the participation of foster children and former foster children in educating other foster children about the foster children's bill of rights.

Requires DFPS to develop and implement a policy for receiving and handling reports that the rights of a child in foster care are not being observed.

Provides that the above provisions do not create a cause of action.

Requires DFPS to ensure that each child in its permanent managing conservatorship who is 16 years of age or older obtains a free copy of the child's credit report in accordance with the Fair and Accurate Credit Transactions Act of

2003 (Pub. L. No. 108-159) each year until the child is discharged from foster care and receives information regarding interpreting the report and the procedure for correcting inaccuracies in the report.

Monitoring Prescribed Psychotropic Drugs for Children in Foster Care—H.B. 3531

by Representative Strama et al.—Senate Sponsor: Senator Nelson

For several years, HHSC, DFPS, and DSHS have worked together to ensure the appropriate prescribing of psychotropic medications to children in foster care, who often face psychological and emotional stress, through monitoring such medications, reviewing the use of such medications, establishing best practices parameters for psychotropic medication utilization, and utilizing other strategies and information. This bill:

Requires HHSC to implement a system under which HHSC will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for children who are in the conservatorship of DFPS and are enrolled in the STAR Health Medicaid managed care program that includes, as a component of the system, a medical review of a prescription when that review is appropriate.

Promoting Independence Advisory Committee—S.B. 37

by Senator Zaffirini et al.—House Sponsor: Representative Naishtat

The interagency task force on ensuring appropriate care settings for persons with disabilities, known as the Promoting Independence Advisory Committee (committee), is set to expire. The committee is charged with studying and making recommendations to assist HHSC and appropriate health and human services agencies in developing a comprehensive and effective working plan to ensure appropriate care settings for persons with disabilities. This bill:

Provides for the expiration on September 1, 2017, of provisions of law relating to the interagency task force on ensuring appropriate care settings for persons with disabilities.

Health and Mental Health Services for Children in Foster Care and Kinship Care—S.B. 219

by Senators Nelson and Van de Putte—House Sponsor: Representative Naomi Gonzalez

During the interim, the Senate Committee on Health and Human Services (committee) was charged with studying mental health services available to and accessed by abused and neglected children, some of whom may be in foster care and kinship care, and with recommending strategies to address the impact of the trauma and enhance therapeutic services available to address the issues. This bill:

Requires DFPS to include training in trauma-informed programs and services in any training DFPS provides to certain persons, including DFPS supervisors.

Requires DFPS to annually evaluate the effectiveness of such training to ensure progress toward a trauma-informed system of care.

Requires DFPS to require certain personnel to complete an annual refresher training course in trauma-informed programs and services.

Requires DFPS, to the extent that resources are available, to assist court-appointed special advocate programs, children's advocacy centers, local community mental health centers, and domestic violence shelters in developing training in trauma-informed programs and services and in locating funding and other resources to assist the entities in providing such programs and services.

Requires HHSC to explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of Texas and encourage STAR Health program providers to use telemedicine services as appropriate.

Requires that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients under the STAR Health program include a requirement that trauma-informed care training be offered to each contracted physician or provider, and requires that, to the extent permitted by law or the terms of the contract, HHSC amend a contract entered into before the legislation's effective date with a managed care organization to require such compliance.

Requires HHSC to encourage each managed care organization providing health care services to recipients under the STAR Health program to make training in post-traumatic stress disorder and attention-deficit/hyperactivity disorder available to a contracted physician or provider within a reasonable time after the date the physician or provider begins providing services under the managed care plan.

Requires HHSC to encourage each managed care organization providing health care services to a recipient under the STAR Health program to ensure that the organization's network providers comply with the Texas Health Steps program prescribed regimen of care, if applicable, including the requirement to provide a mental health screening during each recipient's Texas Health Steps medical examinations conducted by a network provider.

Protective Services and Investigations of Alleged Abuse, Neglect, or Exploitation—S.B. 221

by Senator Nelson—House Sponsor: Naomi Gonzalez

The Adult Protective Services Division (APS) of DFPS is responsible for investigating abuse, neglect, and exploitation of adults who are elderly or who have disabilities. Interested parties contend that legislation is needed to strengthen protections for elderly persons and persons with disabilities. This bill:

Provides that the provision relating to the exclusive method for compelled discovery of a record of a financial institution relating to one or more customers does not apply to and does not require or authorize a financial institution to give a customer notice of certain demands, inquiries, and requests, including a record request from or report to a government agency arising out of the investigation of alleged abuse, neglect, or exploitation of an person with a disability or an elderly person.

Clarifies that DFPS is required to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an alleged perpetrator in a report the DFPS receives alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that certain conditions are met.

Entitles DFPS to obtain from DPS criminal history record information maintained by DPS that relates to certain persons, including a person who is a person, other than an alleged perpetrator in a report described above, living in the residence in which the alleged victim of the report resides; or an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with an entity or person that contracts with DFPS and has access to confidential information in DPS's records, if such a person has or will have access to that confidential information.

Includes certain persons for whom DFPS is entitled to obtain from DPS criminal history record information maintained by DPS among the persons for whom DFPS is entitled to obtain criminal history record information maintained or indexed by the Federal Bureau of Investigation (FBI).

Requires the executive commissioner of HHSC, rather than a certain other entity, to adopt rules to prevent the harassment of an employee or volunteer through the request and use of criminal records.

Provides that DFPS is not prohibited from releasing criminal history record information obtained to certain persons and entities, including an adult who resides with an alleged victim of abuse, neglect, or exploitation of a child, elderly person, or person with a disability and who also resides with the alleged perpetrator of that abuse, neglect, or exploitation if certain conditions are met; or an elderly or disabled person who is an alleged victim of abuse, neglect, or exploitation and who resided with alleged perpetrator of that abuse, neglect, or exploitation if certain conditions are met.

Clarifies that the investigator in the investigation unit for adult protective services who determines that abuse, neglect, or exploitation suffered by a person with a disability or an elderly person may have resulted from criminal conduct is required to immediately notify certain entities.

Redefines "exploitation" and "protective services" in Section 48.002 (Definitions), Human Resources Code.

Authorizes the executive commissioner, with certain exceptions, to adopt definitions of "abuse," "neglect," and "exploitation," as an alternative to certain statutory definitions, for purposes of conducting an investigation under Chapter 48 (Investigations and Protective Services for Elderly and Disabled Persons), Human Resources Code, and Chapter 142 (Home and Community Support Services), Health and Safety Code.

Requires DFPS, biennially, rather than annually, to send to certain entities the community satisfaction survey it develops, subject to the availability of funds, that solicits information regarding DFPS's performance with respect to providing investigative and adult protective services.

Increases the penalty to a Class A misdemeanor if a person knowingly or intentionally reports information relating to the abuse, neglect, or exploitation of a person with disabilities or an elderly person that the person knows is false or lacks factual foundation.

Requires DFPS to continue an investigation of a report of abuse, neglect, or exploitation of a person with a disability or an elderly person who refuses to be interviewed or cannot be interviewed due to certain impairments by interviewing other persons thought to have knowledge relevant to the investigation.

Requires DFPS or another state agency, as appropriate, to have access to any records or documents, including financial records, necessary to the performance of DFPS's or state agency's duties relating to investigations and protective services for the elderly and persons with disabilities, and requires a person, agency, or institution that has a record or document that DFPS or state agency needs to perform its duties, to make the record or document available to the appropriate entity without necessary delay.

Provides that DFPS is exempt from paying an otherwise required fee to obtain certain records, including a financial record from a person, agency, or institution, if the request for a record is made in the course of a DFPS investigation.

Requires a court, on good cause shown, to order a person, agency, or institution who has a requested record or document to allow DFPS or state agency to have access to that record or document under the terms and conditions prescribed by the court, and entitles such an entity who has a requested record or document to notice and a hearing on a petition filed.

Prohibits voluntary protective services to be provided if an elderly person or a person with disabilities withdraws from or refuses consent to voluntary protective services, with an exception.

Authorizes a protective services agency to furnish protective services to certain persons, including to a relative or caretaker of a person with a disability or an elderly person on behalf of that person with the relative's or caregiver's consent.

Modifies certain time requirements to provide that the emergency order for protective services expires on the earlier of the end of the 10th day after the date the order is rendered or the end of the 10th day after the date the person was removed to safer surroundings if the emergency order was rendered subsequent to the removal of the person to safer surroundings, unless certain conditions occur.

Provides certain provisions regarding the extension by the court of an emergency order.

Establishes that any medical facility, emergency medical services provider, or physician who provides treatment to or who transports a person with a disability or an elderly person pursuant to an emergency order is not liable for any damages arising from the treatment or transportation, except for those damages due to negligence.

Authorizes DFPS, if DFPS cannot obtain an emergency order because the court is closed, to remove or authorize an appropriate transportation service to remove the person with a disability or the elderly person to safer surroundings, authorize medical treatment, or authorize or provide other available services necessary to remove conditions creating the threat to life or physical safety, and meet certain requirements regarding the emergency order afterward.

Requires DFPS or its designee, if the employee requests a hearing, to set a hearing; give written notice of the hearing to the employee; and designate an administrative law judge, rather than a hearings examiner, to conduct the hearing.

Requires the administrative law judge to make findings of fact and conclusions of law and promptly issue an order regarding the occurrence of the reportable conduct.

Repeals Section 48.405(c), Human Resources Code, relating to certain actions by the commissioner of DFPS or the commissioner's designee based on the findings of fact, conclusions of law, and the recommendations of the hearings examiner.

Task Force to Address the Relationship Between Domestic Violence and Child Abuse—S.B. 434

by Senators Nelson and Uresti—House Sponsor: Representative Raymond

Recently, an informal workgroup, composed of representatives from DFPS, HHSC, child protective services, and members of the child abuse, sexual assault, and domestic violence advocacy community, began meeting to examine related state policies. This bill:

Establishes the Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect (task force) to examine the relationship between family violence and child abuse and neglect, develop policy recommendations, if needed, to address issues and effects resulting from that relationship, and develop comprehensive statewide best practices guidelines for both child protective services and family violence shelter centers.

Sets forth provisions relating to the composition of the task force and appointment to the task force, the presiding officer, meetings, and compensation and reimbursement.

Requires the task force to receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations; develop policy recommendations for addressing the relationship between family violence and child abuse and neglect; and develop comprehensive statewide best practices guidelines for both child protective services and family violence shelter centers.

Requires the task force, in developing policy recommendations and best practices guidelines, to examine the findings and recommendations of the National Council of Juvenile and Family Court Judges Family Violence Department's

report, "Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice," and examine the key concepts regarding child safety plans and decision making found in the 2009 edition of the American Bar Association's "Child Safety: A Guide for Judges and Attorneys."

Requires the task force, not later than September 1, 2012, to submit a report to certain persons and sets forth the content of the report.

Requires DFPS to seek the assistance of the task force if DFPS proposes to adopt or amend a rule as the result of the work done by the task force.

Provides that the task force is abolished and the related subchapter expires September 1, 2013.

Parental Child Safety Placement Agreement and Notice to Adults About Child Removal—S.B. 993

by Senator Uresti—House Sponsor: Representative Eddie Rodriguez

In some instances, DFPS will allow a parent in a DFPS case to place his or her child with a relative or other caregiver who will temporarily care for the child outside of the child's home due to risk of abuse or neglect, which is known as a parental child safety placement (PCSP). Currently, this practice is governed by DFPS policy, and interested parties are concerned that state law does not adequately address such placements.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 added an additional requirement for a state to be eligible for certain funding related to foster care and adoption to require a state, in a specified amount time after the removal of a child from his or her parent's custody, to identify and provide notice to certain adult relatives regarding the removal of the child and regarding options the person has to participate in the care and placement of the child. This bill:

Defines "caregiver," "parental child safety placement," and "parental child safety placement agreement."

Requires that a PCSP agreement (agreement) include terms that clearly state the respective duties of the person making the placement and the caregiver; conditions under which the person placing the child may have access to the child; the duties of DFPS; the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under DFPS policy; and any other term DFPS determines necessary for the safety and welfare of the child.

Sets forth certain requirements regarding the agreement.

Requires DFPS to develop policies and procedures for evaluating a potential caregiver's qualifications to care for a child in regard to a PCSP, including policies and procedures for evaluating the criminal history of a caregiver; allegations of abuse or neglect against a caregiver; and a caregiver's home environment and ability to care for the child.

Requires DFPS, if after performing an evaluation of a caregiver and determining that it is not in the child's best interest to be placed with the caregiver, to notify the person who proposed the caregiver and the proposed caregiver of the reasons for DFPS's decision, but prohibits DFPS from disclosing the specifics of any criminal history or allegations of abuse or neglect unless the caregiver agrees to the disclosure.

Sets forth DFPS procedures for closing a case in which DFPS has approved a PCSP, providing for certain situations.

Requires DFPS, if, while a PCSP agreement is in effect, DFPS files suit seeking to be named managing conservator of the child, to give priority to placing the child with the PCSP caregiver as long as the placement is safe and available.

Requires DFPS, when DFPS or another agency takes possession of a child, to provide certain information to certain adult relatives or caregivers DFPS is able to identify and locate, authorizes DFPS to provide certain information to each adult DFPS is able to identify and locate who has a long-standing and significant relationship with the child, and sets forth instances in which DFPS is not required to provide that information.

Requires that the information provided to those persons state that the child has been removed from the child's home and is in the temporary managing conservatorship of DFPS; explain the options available to the individual to participate in the care and placement of the child and the support of the child's family; state that some options available to the individual may be lost if the individual fails to respond in a timely manner; and include certain details regarding a status hearing.

Requires DFPS to use due diligence to identify and locate all individuals to whom it is required or authorized to provide certain information not later than the 30th day after the date DFPS files a suit affecting the parent-child relationship.

Requires DFPS, not later than the 10th day before the date set for a status hearing, to file with the court a report regarding the efforts DFPS made to identify, locate, and provide information to those individuals whom it was required or authorized to do so.

Authorizes the court to modify an original or amended service plan at any time.

Sets forth an additional condition under which a status hearing is not required.

Makes certain modifications regarding findings a court is required to make if all persons entitled to citation and notice of a status hearing were not served.

Requires a court to review the service plan that DFPS or other agency filed under Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, for reasonableness, accuracy, and compliance with requirements of court orders and make certain findings, including whether the plan is reasonably tailored to address any specific issues identified by DFPS and whether the child's parents and the DFPS representative or other agency have signed the plan.

Requires a court, after reviewing the service plan and making any necessary modifications, to incorporate the service plan into the orders of the court, and authorizes the court to render additional appropriate orders to implement or require compliance with the plan.

Requires the court to review the report filed by DFPS regarding identifying, locating, and providing information to certain persons, and inquire into the sufficiency of DFPS's efforts, and requires the court to order DFPS to make additional efforts if the court determines that DFPS's efforts to identify, locate, and provide information have been insufficient.

Requires the court to give the child's parents an opportunity to comment on the service plan.

Requires the court, if a proposed child placement resources form has not been submitted, to require certain persons to whom DFPS is required to provide a form to submit a completed form.

Requires the court to advise parties of the provisions regarding the mandatory appointment of an attorney ad litem and to appoint an attorney ad litem to represent the interests of any person eligible if the appointment is required.

Requires the court to advise the parties that progress under the service plan will be reviewed at all subsequent hearings.

Repeals Section 263.202(c) (relating to the requirement that a court advise the parties that progress under the service plan will be reviewed at all subsequent hearings), Family Code, and Section 263.202(d) (relating to an instance in which a court is required to consider whether to waive the service plan), Family Code.

Task Force to Reduce Child Abuse and Neglect and Improve Child Welfare—S.B. 1154

by Senator Uresti—House Sponsor: Representative McClendon

S.B. 2080, 81st Legislature, Regular Session, 2009, established a task force to establish a strategy for reducing child abuse and neglect and improving child welfare, which is set to be abolished on September 1, 2011. This bill:

Establishes a task force to develop a strategy to reduce child abuse and neglect and improve child welfare.

Sets forth provisions related to the task force's appointments to the task force, compensation and reimbursement, the presiding officer, funding, and the task force account.

Requires the task force to identify all existing programs in the state relating to reducing child abuse and neglect or improving child welfare and identify which of those receive state money.

Requires the task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in this state, providing certain requirements in doing so.

Provides that the strategic plan may include proposals for specific statutory changes, the creation of new programs, and methods to foster cooperation among state agencies and between the state and local governments.

Specifies certain support agency duties that DFPS, DSHS, the Texas Department of Criminal Justice (TDCJ), the Texas Youth Commission (TYC), the Texas Juvenile Probation Commission (TJPC), The University of Texas System, and The Texas A&M University System must perform.

Requires the task force to consult with employees of DFPS, DSHS, TDCJ, TYC, TJPC, The University of Texas System, and The Texas A&M University System as necessary to accomplish the task force's responsibilities; and authorizes the task force to consult with certain private foundations to accomplish the task force's responsibilities

Requires the task force, not later than December 1, 2012, to submit the required strategic plan to the required persons.

Provides that the task force is abolished and the corresponding subchapter expires September 1, 2013.

Notice Regarding Disposal of Patients' Medical Records—H.B. 118

by Representative McClendon—Senate Sponsor: Senator Uresti

Current law regarding retention of medical records allows a licensed hospital to dispose of a medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital, with certain statutory exceptions. This bill:

Requires a hospital to provide written notice to a patient, or a patient's legally authorized representative, that the hospital may authorize the disposal of medical records relating to the patient on or after periods specified.

Requires that the notice be provided to the patient or the patient's legally authorized representative not later than the date on which the patient who is or will be the subject of a medical record is treated, or, in an emergency treatment situation, that the notice be provided as soon as is reasonably practicable following the situation.

Bigamy and Reporting of Births—H.B. 253

by Representative Hilderbran—Senate Sponsor: Senator Nelson

In 2008, Texas authorities raided a polygamist sect in El Dorado, Texas. This bill:

Authorizes felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), Code of Criminal Procedure, to be presented within certain limits, and not afterward, including within seven years from the date of the commission of certain offenses including bigamy, with the exception that if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense of bigamy is committed than the felony indictment is authorized to be presented within ten years from the 18th birthday of the victim of the offense.

Authorizes a court to issue a temporary restraining order in a suit by DFPS for the removal of an alleged perpetrator under Section 262.1015(a), (requiring DFPS to file a petition for the removal of an alleged perpetrator from the residence of the child rather than attempt to remove the child from the residence), Family Code, if DFPS's petition states facts sufficient to satisfy the court that certain conditions are met, including that the parent or other adult with whom the child will continue to reside in the child's home is likely to make a reasonable effort to monitor the residence, and will report to DFPS and the appropriate law enforcement agency any attempt by the alleged perpetrator to return to the residence.

Provides that failure to perform a required duty relating to the filing of a birth certificate or the reporting of a birth is a Class A misdemeanor, rather than a Class C misdemeanor offense.

Provides that, if at the time of the commission of the offense of bigamy, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is 17 years of age, the offense is a felony of the second degree, and if such a person is 16 years of age or younger, the offense is a felony of the first degree, raising the age limits from the current requirements.

Standards for Certain Licensed Facilities and Registered Family Homes—H.B. 434

by Representative Parker et al.—Senate Sponsor: Senator West

A child died due to a registered family home care provider's failure to follow the child's physician's order regarding the child's care. This bill, known as Paisley's Law:

Adds an additional provision to the minimum standards applied to certain licensed child care facilities and to registered family homes that DFPS is required to promulgate to ensure that a child care facility or registered family home follow the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child and maintain for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home.

Texas Medical Board Complaints—H.B. 680

by Representatives Schwertner and Torres—Senate Sponsor: Senator Huffman

During the interim, the Senate Committee on Health and Human Services was charged with studying the current practices of the Texas Medical Board (TMB) relating to the disclosure of complaints. This bill:

Prohibits TMB from considering or acting on a complaint involving care provided more than seven years before the date on which the complaint is received unless the care was provided to a minor, in which case, TMB may not consider or act on a complaint involving the care after the later of the date the minor is 21 years of age or the seventh anniversary of the date of care.

Authorizes TMB, on receipt of a complaint, to consider a previously investigated complaint to determine whether there is a pattern of certain practice violations.

Defines "anonymous complaint," "insurance agent," "insurer," and "third-party administrator" for certain complaints.

Prohibits TMB from accepting anonymous complaints.

Sets forth certain content that must be included in a complaint filed with TMB by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a physician and requires TMB to notify the physician who is the subject of the complaint of certain information regarding who filed the complaint, not later than 15 days after the date the complaint is filed, unless the notice would jeopardize the investigation.

Increases the time period in which TMB is required to complete a preliminary investigation of a complaint to not later than the 45th day after the date of receiving the complaint.

Authorizes TMB, in addition to certain other authority, to issue and establish the terms of a remedial plan to resolve the investigation of a complaint relating to Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code, and requires TMB to adopt rules related to the remedial plan not later than January 1, 2012.

Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice medicine; or assesses an administrative penalty against a person.

Prohibits the imposition of a remedial plan to resolve complaints concerning certain factors.

Prohibits TMB from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with TMB for the resolution of a different complaint relating to the subtitle.

Provides that a remedial plan is public information.

Provides that, in civil litigation, a remedial plan is a settlement agreement under Rule 408 (Compromise and Offers to Compromise), Texas Rules of Evidence.

Increases the time period in which TMB is required to give notice to a license holder of the time and place of informal meeting to not later than the 45th day before the date the meeting is held, and requires the license holder to provide to TMB the license holder's rebuttal at least 15 business days, rather than five business days, before the date of the meeting in order for the information to be considered at the meeting.

Requires TMB, on request by a physician under review, to make a recording of the informal settlement conference proceeding, provides that the recording is part of the investigative file and may not be released to a third party unless appropriately authorized, and authorizes TMB to charge the physician a fee to cover the cost of the recording.

Requires TMB, after receiving the findings of fact and conclusions of law of the administrative law judge employed by the State Office of Administrative Hearing who conducts a formal hearing of a contested case, to dispose of the contested case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law, rather than requiring TMB to determine the charges on the merits.

Prohibits TMB from changing a finding of fact or conclusion of law or vacating or modifying an order of the administrative law judge.

Authorizes TMB to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge.

Establishes that for each case, TMB has the sole authority and discretion to determine the appropriate action or sanction, and prohibits the administrative law judge from making any recommendation regarding the appropriate action or sanction.

Establishment and Use of a Private Family Cemetery by Certain Organizations—H.B. 788

by Representatives Kuempel and Doug Miller—Senate Sponsor: Senator Wentworth

Currently, an organization exempt from taxation under the federal Internal Revenue Code of 1986 is not authorized to establish and use a private family cemetery on land that is owned by the organization. In Guadalupe County, a family donated land, which has been held by that family for generations, to create an agriculture and heritage center, which has a nonprofit designation, to educate youth about agriculture and to provide an opportunity to experience farming and ranching. Due to the current lack of authorization to establish and use a private family cemetery on such property, the family is unable to bury family members on that property. This bill:

Provides that the statute prohibiting certain entities from establishing or operating a cemetery, or using any land for the interment of remains located in or within certain boundaries, does not, in addition to not applying to certain cemeteries, columbariums, mausoleums, apply to the establishment and use of a private family cemetery by an organization that is exempt from income taxation under Section 501(a) (Exemption from Taxation), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that is owned by the organization and located in a county with a population of more than 125,000 and that is adjacent to a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality.

Graduate Medical Training Requirements for Certain Foreign Graduates—H.B. 1380

by Representative Truitt—Senate Sponsor: Senator Rodriguez

Current Texas law provides that international medical graduates cannot receive a license to practice medicine until they have completed three full years of residency training, while physicians who graduated from approved medical schools in the United States or Canada are eligible for a Texas license after completing only one year of residency. Some persons state that the requirement for international medical graduates may cause a delay in such individuals

taking their TMB examination or cause an individual to obtain a medical license in another state that does not have the same requirement. This bill:

Requires an applicant, in order to be eligible for a license to practice medicine, to present proof satisfactory to TMB that, in addition to existing criteria, the applicant graduated from a medical school located outside the United States or Canada and has successfully completed two years, rather than three years, of graduate medical training approved by TMB in the United States or Canada.

Revocation of an Emergency Medical Services Personnel Certification—H.B. 1476

by Representative Riddle—Senate Sponsor: Senator Nichols

Current law provides for the revocation of an emergency medical services personnel certificate (certificate) if the certificate holder is convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12, Code of Criminal Procedure; or an offense, other than an offense described previously, committed on or after September 1, 2009, for which the person is subject to registration under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure. The current law prevents, in certificate revocation, consideration of certain crimes that were committed before the law went into effect. This bill:

Requires a certificate holder's certificate to be revoked if the certificate holder has been, rather than is, convicted of or placed on deferred adjudication community supervision or deferred disposition for certain offenses.

Eligibility and an Exemption Relating to Social Work Licensing Requirements—H.B. 1797

by Representative Naishtat—Senate Sponsor: Senator Rodriguez

The Texas State Board of Social Worker Examiners (TSBSWE) regulates the profession of social work in Texas. Currently, a person is not allowed to identify himself or herself as a social worker until the person has passed certain licensing examinations conducted by TSBSWE. In order to be eligible for the social work licensing examination, an applicant must have a degree from an education program accredited by the Council on Social Work Education (CSWE), which means that a student who successfully completes the educational requirements of a social work program that is in candidacy for accreditation is not eligible to take the state licensure exam until the program becomes accredited. This bill:

Provides that a person who teaches social work at certain institutions of higher education is not required to hold a social workers license to the extent the person confines the person's activities to teaching and does not otherwise engage in the practice of social work.

Authorizes an applicant to take the social workers licensing examination conducted by TSBSWE if certain conditions are met, including for a master social worker license if the applicant possesses a doctoral or master's degree in social work from a graduate program that is accredited by or is in candidacy for accreditation by CSWE, and for a baccalaureate social worker license if the applicant possesses a baccalaureate degree in social work from an education program that is accredited by or is in candidacy for accreditation by CSWE.

90-Day Supply of Dangerous Drugs and Accelerated Refills—H.B. 2069

by Representative Naishtat—Senate Sponsor: Senator Lucio

Current law requires a properly authorized prescription refill to follow the original dispensing instruction unless the practitioner or practitioner's agent indicates otherwise. This bill:

Authorizes a pharmacist to dispense up to a 90-day supply of a dangerous drug pursuant to a valid prescription that specifies the dispensing of a lesser amount followed by periodic refills of that amount if the total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the original prescription, including refills; the patient consents to the dispensing of up to a 90-day supply and the physician has been notified electronically or by telephone; the physician has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary; the dangerous drug is not a psychotropic drug; and the patient is at least 18 years of age.

Provides the above provision as an exception to the existing requirement that a properly authorized prescription refill follow the original dispensing instruction unless otherwise indicated by the practitioner or the practitioner's agent.

Authority of Physicians and Physician Assistants—H.B. 2098

by Representative John Davis—Senate Sponsor: Senator Uresti

Business partnerships between physicians and physician assistants (PAs) may provide positive benefits to their patients, the community, and to the physicians and PAs. Such partnerships may also help address the shortage of physicians and PAs in rural and other underserved areas. This bill:

Allows licensed physicians and licensed PAs to form a corporation to perform a professional service that falls within the scope of practice of those practitioners and consists of carrying out research in the public interest in medical science, medical economics, public health, sociology, or a related field; supporting medical education in medical schools through grants or scholarships; developing the capabilities of individuals or institutions studying, teaching, or practicing medicine or acting as a PA; delivering health care to the public; or instructing the public regarding medical science, public health, hygiene, or a related matter.

Prohibits a PA from being an officer of the corporation and from contracting with or employing a physician to be a supervising physician of the PA or of any physician in the corporation.

Limits the authority of each practitioner by the scope of practice of the respective practitioner and requires that an organizer of the entity be a physician and ensure that a physician or physicians control and manage the entity.

Provides that this law may not be construed to allow the practice of medicine by someone not licensed as a physician or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

Provides that a PA or combination of PAs may only have a minority ownership interest in an entity and that the ownership interest of an PA may not equal or exceed the ownership interest of any individual physician owner.

Prohibits a PA or combination of PAs from interfering with the practice of medicine by a physician owner or the supervision of PAs by a physician owner.

Establishes that TMB and the Texas Physician Assistant Board (TPAB) continue to exercise regulatory authority over their respective license holders.

Provides the appropriate conforming changes to provisions under the Business Organizations Code.

Requires a physician who jointly owns an entity with a PA to report annually to TMB the ownership interest and other information required by TMB rule; requires TMB to assess a fee for processing each report; and establishes that the report is public information.

Requires a PA who jointly owns an entity with a physician to report annually to TPAB the ownership interest and other information required by TPAB rule; requires TPAB to assess a fee for processing each report; and establishes that the report is public information.

Duties of a Funeral Director or an Agent at Interment or Entombment—H.B. 2286

by Representative Veronica Gonzales—Senate Sponsor: Senator Hinojosa

In statute, "funeral directing" is defined as acts associated with or arranging for the disposition of a dead human body, performed by a person for compensation, from the time of first call until inurnment, interment, or entombment services are complete, or the body is permanently transported out of this state. This bill:

Requires a funeral director who contracts with a customer to perform funeral directing duties, or an agent of the funeral establishment, to be present when the casket containing the human body to which the contract applies is placed in a grave, crypt, or burial vault unless interment or entombment takes place at a location outside this state.

Provides that funeral directing duties related to interment or entombment services are complete when the casket is placed in a grave, crypt, or burial vault.

Convictions Barring Employment—H.B. 2609

by Representative Guillen—Senate Sponsor: Senator Uresti

Persons who have been convicted of certain offenses are currently prohibited from obtaining employment at facilities serving the elderly or persons with disabilities. This bill:

Prohibits a person for whom the facility, as defined by Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses), is entitled to obtain criminal history record from being employed in a facility if the person has been convicted of certain offenses in this subsection, including an offense under Section 36.06 (Obstruction or Retaliation), Penal Code; an offense under Section 42.09 (Cruelty to Livestock Animals), Penal Code; or under Section 42.092 (Cruelty to Nonlivestock Animals), Penal Code.

Regulation of Orthotists and Prosthetists—H.B. 2703

by Representative Truitt—Senate Sponsor: Senator Uresti

Individuals and facilities engaged in the practice of orthotics and prosthetics are required to obtain a license under Chapter 605 (Orthotists and Prosthetists), Occupations Code. Currently, the Texas Orthotics and Prosthetics Act establishes the legal sources of orthotic and prosthetic prescriptions as licensed physicians, chiropractors, or podiatrists. This bill:

Redefines "orthotics" to mean the science and practice of measuring, designing, fabricating, and assembling, fitting, adjusting, or servicing an orthosis under an order from certain persons, including an advanced practice nurse or physician assistant acting under the approved delegation and supervision of a licensed physician, for the correction of alleviation of a neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

Redefines "prosthetics" to mean the science and practice of measuring, designing, fabricating, and assembling, fitting, adjusting, or servicing a prosthesis under an order from certain persons, including an advanced practice nurse or physician assistant acting under the approved delegation and supervision of a licensed physician.

Provides that a person licensed to practice orthotics or prosthetics who measures, designs, fabricates, fits, assembles, adjusts, or services an orthosis or prosthesis under an order from certain persons, including an advanced practice nurse or physician assistant acting under the approved delegation and supervision of a licensed physician, for a specific patient is exempt from licensing as a device manufacturer

Provides that a person licensed to practice orthotics or prosthetics who fabricates or assembles and orthosis or a prosthesis without an order from certain persons, including an advanced practice nurse or physician assistant acting under the approved delegation and supervision of a licensed physician, for a specific patient is required to be licensed as a device manufacturer.

Form of Death Certificates and Fetal Death Certificates—H.B. 2940

by Representative Tracy O. King—Senate Sponsor: Senator Zaffirini

Current law requires a person whose duty it is to file a death certificate or fetal death certificate to fill out a certain form in the Texas Electronic Registrar. On the electronic form, the month and dates are in numerical form and are not spelled out which may cause confusion due to different methods of ordering numeric dates. This bill:

Requires DSHS, in prescribing the form and contents of death certificates and fetal death certificates, to ensure that the form instructs the person required to file such certificates to enter the date in the standard order of "month, day, year" and spell out the name of the month when entering the date.

Requires DSHS to revise and make available required forms not later than January 1, 2012.

Provides that a person required to file a death certificate or a fetal death certificate is not required to use the required revised form before February 1, 2012.

Continuing Education Relating to Tick-Borne Diseases—H.B. 2975

by Representative Hunter et al.—Senate Sponsor: Senator Harris

In Texas, the incidence of Lyme and tick-borne diseases, diseases which can be difficult to diagnose and the symptoms of which can be debilitating, is increasing at a steady rate. There are two internationally recognized standards of care for treating Lyme disease: one from the Infectious Diseases Society of America and the other from the International Lyme and Associated Diseases Society. Interested parties contend that medical and nursing education on the appropriate care and treatment of tick-borne diseases, particularly knowledge of both forms of treatment, is essential to the delivery of necessary health care to individuals experiencing tick-borne diseases. This bill:

Encourages a licensed physician who submits an application for a renewal of a license to practice medicine and whose practice includes the treatment of tick-borne disease to include continuing medical education (CME) in the treatment of tick-borne diseases among the hours of CME completed for purposes of certain rules adopted relating to requiring at least one-half of certain established hours of CME requirements to be approved by TMB.

Requires TMB, not later than January 31, 2012, to adopt rules to establish the content of and approval requirements for CME relating to the treatment of tick-borne diseases, and, in adopting those rules, requires TMB to seek input from affected parties and review relevant courses, including courses that have been approved in other states.

Requires that the adopted rules provide for the identification and approval of accredited CME courses that represent an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases.

Requires TMB, if relevant, to consider a physician's participation in such an approved CME course if the physician is being investigated by TMB regarding the physician's selection of clinical care for the treatment of tick-borne disease and the physician completed the course not more than two years before the start of the investigation.

Authorizes TMB to adopt other rules to implement these provisions.

Encourages, as part of certain continuing education requirements as a condition of renewal of a license as a nurse, a license holder whose practice includes the treatment of tick-borne disease to participate, during each two-year licensing period, in continuing education relating to the treatment of tick-borne diseases.

Requires BON to adopt rules, not later than January 31, 2012, to identify the license holders who are encouraged to complete such continuing education and to establish the content of that continuing education.

Requires BON, in adopting those rules, to seek input from affected parties and review relevant courses, including courses that have been approved in other states.

Requires that the rules adopted provide that continuing education courses representing an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases qualify as approved continuing education courses for license renewal.

Requires BON, if relevant, to consider a license holder's participation in such an approved continuing education course if the license holder is being investigated by BON regarding the license holder's selection of clinical care for the treatment of tick-borne diseases and the license holder completed the course not more than two years before the start of the investigation.

Authorizes BON to adopt other rules to implement these provisions.

Requires TMB and BON to consult and cooperate in adopting the required rules.

Requires TMB and BON, not later than February 6, 2012, to report to the governor, the lieutenant governor, and the speaker of the house of representatives concerning the required adoption of rules.

Child Care by Certain Facilities Exempt From Licensing Requirements—H.B. 3051

by Representative Pickett et al.—Senate Sponsor: Senator Rodriguez

A certain nonprofit organization in El Paso County provides a program that focuses on improving children's development by providing parenting instruction and adult literacy and education courses. TEA requires organizations that administer the program to provide a certain number of hours of instruction per month. Current DFPS regulations, though, prohibit an unlicensed, nonprofit child care facility from providing child care to a child for more than 12 hours per week, even when the parent is in close proximity, which may make it difficult for the parents to participate in the educational classes and meet the TEA requirements. This bill:

Authorizes a child care facility that is exempt from licensing requirements related to operating a child care facility or child-placing agency due to its status as a facility that is operated in connection with certain establishments where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, on or near the premises, that does not advertise as a child care facility or day-care center, and that informs parents that it is not licensed by the state, to provide care for each child at the child care facility for not more than 15 hours a week if the child care facility provides the child care so that a person may attend an educational class provided by a nonprofit entity, and is located in a county with a population of 800,000 or more that is adjacent to an international border.

Heimlich Maneuver Display Requirement Repealed—H.B. 3065

by Representative Sheffield—Senate Sponsor: Senator Nichols

Since 1989, food service establishments have been required to display a poster depicting the Heimlich maneuver. Continuing research has been conducted into the most effective and safe manner by which to dislodge food, which has resulted in differing conclusions. Some research has indicated that the use of the Heimlich maneuver may potentially be dangerous. This bill:

Repeals the requirement that a food service establishment at which space for eating is designed or designated post in a place conspicuous to employees or customers a sign that depicts the Heimlich maneuver for dislodging food from a choking person.

Freestanding Emergency Medical Care Facility License—H.B. 3085

by Representative Larry Taylor—Senate Sponsor: Senator Nelson

Current law requires a freestanding emergency medical care facility (facility) to renew its licensing once per year, yet other types of facilities licensed by DSHS are required to renew their licensing at a longer interval than that requirement. This bill:

Provides that the term of a license issued for a facility is two years, and that the license fee must be paid on renewal of the license, rather than be paid annually on renewal of the license.

Provides that notwithstanding the above provision, a facility that is not in continuous operation 24 hours per day and seven days per week cannot be issued a license with a term that extends beyond August 31, 2013.

Regulation of Chemical Dependency Counselors—H.B. 3145

by Representatives Naishtat and Perry—Senate Sponsor: Senator Zaffirini

Concerns have been raised related to the regulation of licensed chemical dependency counselors (LCDC), particularly as these concerns relate to a peer assistance network, the oral exam for a chemical dependency counselor license, and the wait time for persons with a criminal history to become an LCDC.

In 2007, S.B. 155, Regular Session, 80th Legislature (relating to the regulation of chemical dependency counselors), required LCDCs to have access to an approved peer assistance network in order to receive a license or renew a license, but the funding mechanism for the peer assistance program has not been adequately implemented. Additionally, the continued use of the oral exam requirement, in addition to the written exam requirement, to become an LCDC can create logistical and financial hardships. Finally, current policy requires an LCDC applicant with a criminal history to wait five years before being eligible to being working as an intern and to wait the required five years before being eligible for an LCDC license, causing a total wait time of 10 years before being able to begin counseling. This bill:

Provides that Chapter 504 (Chemical Dependency Counselors) does not apply to an activity or service of a person who provides chemical dependency counseling through a program or in a facility that receives funding from TDCJ and who is credentialed as a certified criminal justice addictions professional by the International Certification and Reciprocity Consortium; or having certified criminal justice professional applicant status issued by the Texas Certification Board of Addiction Professionals, in addition to certain other persons.

Requires the executive commissioner of HHSC to add a surcharge of not more than \$10 to the license or license renewal fee for a chemical dependency counselor license to fund approved peer assistance programs for chemical dependency counselors.

Requires the money collected from the surcharge to be remitted to the comptroller for deposit to the credit of the chemical dependency counselor account, which is an account in the general revenue fund.

Authorizes DSHS, subject to the General Appropriations Act, to use the money from the surcharge collected and deposited in the chemical dependency counselor account only to fund approved peer assistance programs and to pay the administrative costs incurred by DSHS that are related to the programs.

Deletes the requirement that a person must pass an oral examination approved by DSHS in order to be eligible for a chemical dependency counselor license.

Authorizes DSHS to issue a registration or certification, in addition to a license, to a person convicted or placed on community supervision in any jurisdiction for certain drug or alcohol offenses if DSHS determines that the applicant has successfully completed participation in an approved peer assistance program.

Prohibits DSHS, with the above provision as an exception, from issuing license, registration, or certification under this chapter to an applicant who has been convicted or placed on community supervision during the three years, rather than five years, preceding the date of application in any jurisdiction for an offense equal to a Class B misdemeanor specified by executive commissioner rule; or certain other circumstances.

Prioritization of Release of Certain Case Records—H.B. 3234

by Representative Hernandez Luna et al.—Senate Sponsor: Senator Davis

According to an August 2010 *Texas Tribune* article, some former foster care children are having difficulties and delays in obtaining their foster care records from DFPS. This bill:

Defines "case record" to mean those files, reports, records, communications, audiotapes, videotapes, or working papers under the custody and control of DFPS that are collected, developed, or used in a child abuse or neglect investigation; or in providing services as a result of an investigation, including substitute care services for a child.

Requires DFPS by rule to establish guidelines that prioritize requests to release case records, including those made by an adult previously in DFPS's managing conservatorship.

Provides that DFPS is not required to release a copy of the case record except as provided by law and DFPS rule.

Registration Exemption of Physical Therapy Facilities—H.B. 3369

by Representative Susan King—Senate Sponsor: Senator Nelson

The Texas Board of Physical Therapy Examiners (TBPTE) is required by rule to adopt requirements regarding the registration of a physical therapy facility, with certain licensed facilities exempt from the registration requirements. This bill:

Authorizes TBPTE to exempt other facilities as appropriate.

Fire Safety Standards at Child Care Facilities—H.B. 3547

by Representative Alvarado—Senate Sponsor: Senator Gallegos

As a result of a fire at a home day-care facility in February 2011, which caused the death or injury of several children, this bill:

Authorizes a municipality or a county to enforce state law and rules adopted under state law concerning fire safety standards at a licensed group day-care home or a registered family home.

Requires a municipality or county to report to DFPS any violation of fire safety standards observed by the municipality or county at a licensed group day-care home or registered family home.

Relative Child Care and Fraud, Waste, and Abuse Prevention—S.B. 76

by Senator Nelson—House Sponsor: Representative Morrison

A certain federal block grant to the states provides subsidies for child care for certain low-income children whose parents work or attend educational or job training programs. Through this service, parents can choose from a number of child care options, including relative child care. Reports indicate that the program in several states is vulnerable to fraud and abuse. This bill:

Defines “relative child care” and “teen parent.”

Requires relative child care be provided in the child care provider’s home, except that TWC is required to allow relative child care in the child’s home for a disabled child and the child’s siblings, for a child under 18 months of age and the child’s siblings, for a child of a teen parent, and when the parent’s work schedule necessitates child-services during certain periods and taking the child outside of the child’s home would be disruptive to the child; and authorizes TWC to allow relative child care in the child’s home if TWC determines that other child care provider arrangements are not available in the community.

Requires a relative child care provider to list the provider’s home with DFPS as a family home.

Requires TWC to provide notice of the background and criminal history check requirement to the parent or guardian of the child who will receive care through a relative child care provider before the parent or guardian selects the provider.

Requires TWC and DFPS, not later than October 1, 2011, to adopt a memorandum of understanding regarding the administration and payment of costs of listing a relative child care provider.

Requires TWC to develop risk assessment protocols to identify and assess possible instances of fraud, waste, and abuse in child care programs, including the use of unemployment insurance wage records to identify certain persons and the identification of parents who apply for or receive child care services in multiple workforce areas simultaneously.

Requires TWC to ensure that local workforce development boards implement procedures to prevent and detect fraud, waste, and abuse in child care programs.

Authorizes TWC to use a motor vehicle record, including a photographic image and signature, to prevent and detect fraud, waste, and abuse in a child care program, and to use such information otherwise for enforcement under Title 4 (Employment Services and Unemployment), Labor Code.

Requires TWC to ensure that corrective action is initiated against a child care provider who commits fraud, including temporarily or permanently withholding payments to the provider for services already delivered; recovering money paid for the child care from the child care provider; stopping the provision of authorized child care at the provider's facility or location; or taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

Requires TWC to ensure that corrective action is initiative against a parent who commits fraud, including recovering money paid for child care from the parent; declaring the parent ineligible for future child care under a TWC program; limiting the enrollment of the parent's child to a regulated child care provider; or taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

Entitles the parent or provider, if TWC proposes to take such corrective actions, to appeal the proposed corrective action in accordance with procedures adopted by TWC by rule.

Requires DFPS, before it may list a child care provider's home under a listing of relative child care providers, in addition to conducting any other required background or criminal history check, to search the central database of sex offender registration records maintained by the Department of Public Safety of the State of Texas (DPS).

Provides that a relative child care provider's home listed as a family home is exempt from certain health and safety requirements.

Requires TWC, if feasible, to use an electronic validation system to ensure that parents verify that a provider or relative child care is providing care and that the child for whom the care is provided is in attendance during the period for which the child care provider is being reimbursed for services.

Provides that provisions relating to certain licensing fees DFPS charges do not apply to certain facilities, including a listed family home in which the relative child care provider cares for the child in the own child's home.

Requires TWC, notwithstanding certain provisions, to ensure that payments made on or after November 1, 2011, to providers of relative child care, are made only to providers with respect to whom a background and criminal history check has been conducted.

Adverse Licensing, Listing, or Registration Decisions—S.B. 78

by Senator Nelson—House Sponsor: Representative Laubenberg

Currently, a state agency has limited authority to take action against a licensure applicant based on an adverse action from another agency, which may allow individuals who have been disciplined for violations by one agency to be licensed to provide services by another agency. This bill:

Provides that the following provisions apply only to the final licensing, listing, or registration decisions of a health and human services agency with respect to a person under the law authorizing the agency to regulate certain entities, provides an accompanying list of such entities, and provides that the provisions do not apply to an agency decision that did not result in a final order or that was reversed on appeal.

Requires each health and human services agency that regulates such a person in accordance with the bill's provisions and rules of the executive commissioner of Health and Human Services (executive commissioner) to maintain a record of each application for a license, a listing, or a registration that is denied by the agency; and each license, listing, or registration that is revoked, suspended, or terminated by the agency.

Specifies the time period that such a record must be maintained, and sets forth the content requirements of the required record.

Requires each health and human services agency that regulates a person described by the bill's provisions to each month provide a copy of the records maintained regarding application denial, or license, listing, or registration revocation, suspension, or termination to each other health and human services agency that regulates an applicable person.

Authorizes a health and human services agency that regulates an applicable person to deny an application for a license, a listing, or a registration if the applicant, a person listed on the application, or a person determined by the applicable regulating agency to be a controlling person of an entity for which the license, the listing, or the registration is sought is listed in an aforementioned record; and the agency's action that resulted in the person being listed in such a maintained record is based on certain acts or omissions, certain threats, certain exploitation, or a determination by an agency that the applicant or person has committed an act or omission that renders the applicant unqualified or unfit to fulfill the obligations of the license, listing, or registration.

Requires an applicant submitting an initial or renewal application for a license, a listing, or a registration to include a written statement with the application, and specifies the content of the written statement.

Requires the executive commissioner of HHSC to adopt the rules necessary to implement these provisions not later than March 1, 2012.

Eligibility of Certain Persons for a License to Practice Medicine—S.B. 189

by Senator Nelson—House Sponsor: Representative Zerwas

Certain parts of the state face a shortage of health care professionals and health care access. Current law does not adequately address shortages in those areas. This bill:

Requires an applicant for a license to practice medicine who is not a United States citizen or an alien lawfully admitted for permanent residence in the United States to present proof satisfactory to TMB that the applicant has practiced medicine or has signed an agreement to practice medicine as a condition of the license for at least three years in an area in Texas that is designated by the United States Department of Health and Human Services as a health professional shortage area or a medically underserved area and authorizes TMB, by rule, to impose such a limit on the area in which such an applicant may be licensed to practice medicine.

Provides that the above provision does not prohibit TMB from issuing a license to such an applicant who is applying for a license to practice medicine at a graduate medical training program in this state that is not in such an area.

Requires TMB, not later than May 1, 2012, to adopt rules and procedures to implement the above provisions.

Disposition of a Contested Case by the Texas Medical Board—S.B. 191 [Vetoed]

by Senator Nelson—House Sponsor: Representative Susan King

TMB is responsible for protecting the public's health, safety, and welfare through the regulation of the practice of medicine. TMB and a State Office of Administrative Hearings (SOAH) administrative law judge both have roles related to the formal disposition of a contested case before TMB. This bill:

Requires TMB, after receiving the findings of fact and conclusions of law of the administrative law judge employed by the SOAH who conducts a formal hearing of a contested case, to dispose of the contested case by issuing a final

order based on the administrative law judge's findings of fact and conclusions of law, rather than requiring TMB to determine the charges on the merits.

Prohibits TMB from changing a finding of fact or conclusion of law or vacating or modifying an order of the administrative law judge.

Authorizes TMB to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge.

Establishes that for each case, TMB has the sole authority and discretion to determine the appropriate action or sanction, and prohibits the administrative law judge from making any recommendation regarding the appropriate action or sanction.

Regulation of the Practice of Nursing—S.B. 193

by Senator Nelson—House Sponsors: Representatives Susan King and Naishtat

BON is charged with ensuring that individuals who hold nursing license are competent to practice safely. Approved peer assistance programs, as provided in statute, are programs, such as the Texas Peer Assistance Program for Nurses, that are designed to help a professional whose ability to perform a professional services is impaired by chemical dependency on drugs or alcohol or by mental illness and that is approved by a licensing or disciplinary authority or approved by such. This bill:

Provides that certain information, including information regarding a person's intemperate use of drugs or alcohol, information regarding a person's criminal history, and any other information in the petition for a declaratory order of eligibility, that a person submits to BON for a petition for a declaratory order of eligibility for a nursing license or for an application for an initial license or a license renewal is confidential to the same extent information collected on a nurse as part of an investigation of a complaint is confidential.

Requires BON by rule to permit a person whose license is on inactive status and who was in good standing with BON on the date the license became inactive, rather than a person whose license is on inactive status and who is 65 years or older, to use, as applicable, certain nursing titles or another BON-approved title.

Provides that an act by a person related to refusing to engage in certain conduct does not constitute a violation if a nursing peer review committee makes certain findings, including that the act or omission the nurse refused to engage in was not conduct reportable to BON, not a minor incident, and not a violation of certain statute or BON rule.

Provides that the results of a physical and psychological evaluation conducted to determine a person's fitness to practice nursing are confidential and not subject to certain disclosure, except that the results may be disclosed to a peer assistance program approved by BON and to which BON has referred the nurse.

Requires the State Office of Administrative Hearings to hold a preliminary hearing not later than the 17th day, rather than the 14th day, after the date of the temporary suspension or restriction to determine whether probable cause exists that a continuing and imminent threat to the public welfare exists, and provides that proof of the elements required for BON to suspend a license for drug or alcohol use is proof that probable cause of a continuing and imminent threat to the public welfare exists.

Authorizes BON to develop a standardized error classification system for use by a nursing peer review committee in evaluating the conduct of a nurse, and provides that information collected as part of the system is a record of the peer nursing review committee and is confidential.

Authorizes a nursing peer review committee to report the information collected to BON, but not to report to BON information that includes the identity of an individual nurse or patient; and sets forth certain confidentiality and disclosure provisions regarding information BON receives.

Provides that these provisions do not affect the obligation or authority of a nursing peer review committee relating to certain other disclosure of information.

Repeals Section 301.355 (Policies Applicable to Nurses Employed by Medical and Dental Units), Occupations Code.

Nondisciplinary Resolution of Complaints Filed Against a Physician—S.B. 227

by Senator Nelson—House Sponsor: Representative Susan King

TMB is mandated to regulate the practice of medicine and conduct investigations of allegations against physicians, along with other mandates. TMB has two options for resolving a complaint against a physician: dismissal of the complaint or certain disciplinary action. This bill:

Authorizes TMB, in addition to certain other authority, to issue and establish the terms of a remedial plan to resolve the investigation of a complaint relating to Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code, and requires TMB to adopt rules related to the remedial plan not later than January 1, 2012.

Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice medicine; or assesses an administrative penalty against a person.

Prohibits the imposition of a remedial plan to resolve complaints concerning certain factors.

Prohibits TMB from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with TMB for the resolution of a different complaint relating to the subtitle.

Authorizes TMB to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

Requires TMB to adopt rules necessary to implement these provisions.

Provides that a remedial plan is public information.

Provides that, in civil litigation, a remedial plan is a settlement agreement under Rule 408 (Compromise and Offers to Compromise), Texas Rules of Evidence.

Notice Regarding Filing Complaints Required at Private Autopsy Facility—S.B. 256

by Senator Nelson—House Sponsor: Representative Susan King

Families using the services of a private autopsy facility may not be inadequately informed about their consumer rights. This bill:

Defines "private autopsy facility."

Requires a private autopsy facility to post a notice in a conspicuous place in a public area of the facility that substantially complies with the notice published by TMB as described below.

Requires that the notice state in English and in Spanish that a person may file with TMB a complaint against a physician who performs autopsy services and requires that the notice include certain TMB contact information.

Requires TMB by rule to adopt a sample form of the notice and to publish the notice on TMB's Internet website not later than January 1, 2012.

Provides that, effective January 1, 2012, a private autopsy facility commits a Class C misdemeanor if the facility fails to post the required notice.

Minimum Training Standards for Certain Child Care Facility Personnel—S.B. 260

by Senators West and Shapiro—House Sponsor: Representative Raymond

DFPS is required by rule to prescribe minimum training standards for an employee of a regulated child care facility, including the time required for completing the training. The number of incidents resulting in harm or death to a child at child care facilities has increased. This bill:

Increases and modifies the number of initial and annual training hours and training requirements that must be included in the minimum training standards for employees of regulated child care facilities prescribed by the DFPS, and modifies to whom certain requirements of those standards apply to include an employee, director, or operator of a day-care center, group day-care home, or registered family home, as appropriate.

Prohibits DFPS, in adopting the minimum training standards, from requiring more training hours than those prescribed in statute.

Requires the executive commissioner of HHSC by rule to adopt minimum training standards for before-school or after-school and school-age programs, and prohibits the executive commissioner from requiring more initial or annual training hours than the number of hours required by certain statute immediately before September 1, 2011.

Requires an employee to complete an orientation to the facility not later than the seventh day after the date the employee begins employment at a day-care center, group day-care home, or registered family home.

Revocation, Suspension, or Restriction of a Physician's License for Certain Offenses—S.B. 263

by Senator Carona—House Sponsor: Representative Kolkhorst

A child psychiatrist placed on deferred adjudication for indecency with a child maintained his license to practice medicine. In some cases a physician who has been arrested or placed on deferred adjudication for certain crimes against children may continue to practice medicine if the physician was not convicted of a felony offense. This bill:

Requires TMB to revoke the license of a physician placed on deferred adjudication community supervision for an offense of sexual assault of a child, aggravated sexual assault of a child, or indecency with a child.

Authorizes an appointed disciplinary panel to suspend or restrict the license of a person arrested for an offense of sexual assault of a child, aggravated assault of a child, continuous sexual abuse of a young child or children, or indecency with a child.

Requires the disciplinary panel, before suspending or restricting a license under these provisions, to determine that the person arrested for an offense listed is the same person who holds a license issued by TMB.

Provides that such a suspension or restriction remains in effect until the final disposition of the case.

Provides that certain provisions in statute relating to temporary suspension or restriction of a license and disciplinary panel apply to such a suspension or restriction.

Requires TMB to adopt rules to implement these provisions, including rules regarding evidence that serves as proof of final disposition of a case.

Prohibits TMB, except on an express determination, based on substantial evidence, that granting probation is in the best interests of the public and of the person whose license has been suspended, revoked, or cancelled, to grant probation to a person whose license has been canceled, revoked, or suspended because of certain felony convictions, including sexual assault of a child, aggravated sexual assault of a child, continuous sexual abuse of a young child or children, or indecency with a child.

Training for Employees and Operators of Certain Child Care Facilities—S.B. 265

by Senator Zaffirini—House Sponsor: Representative Carter

Although employees of certain facilities, homes, and agencies that provide child care services are required to complete certain training in subject areas such as child growth and development, guidance, and discipline, age-appropriate curriculum, or teacher-child interaction, current law does not adequately specify who is authorized to provide such training. This bill:

Requires the training required by Section 42.0421 (Minimum Training Standards), Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child Care Services), Human Resources Code, to be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and provides a list of persons who are permitted to provide the required training, as applicable.

Provides that a person who is a registered family home care provider or director of a day-care center or group day-care home in good standing with DFPS, if applicable, and who meets certain other requirements, may provide training under Section 42.0421, Human Resources Code, only if DFPS has not taken certain disciplinary actions, other than an evaluation, against the license, listing, or registration of the person or the home or center for which the person is a provider or director during the two-year period preceding the date on which the person provides the training.

Exemption From Health Spa Regulation for Certain Hospitals and Clinics—S.B. 335

by Senator Fraser—House Sponsor: Representative Eiland

Certain entities, such as certain wellness centers operated by a nonprofit organization, are currently exempt from having to register as a health spa under provisions of the Health Spa Act, but there is no exception for government-owned hospitals, requiring some hospitals already licensed by the state to also register with the state to lawfully operate a wellness center. This bill:

Adds a hospital or clinic owned or operated by an agency of the state or federal government or by a political subdivision of this state among the facilities excluded from the meaning of the term “health spa” in the Health Spa Act.

Sale and Consumption of Raw Oysters—S.B. 387

by Senator Williams—House Sponsor: Representative Eiland

There is a concern that the federal Food and Drug Administration (FDA) will regulate the interstate sale and transportation of raw oysters from the Gulf of Mexico. To prevent potential federal regulations from applying to Texas oysters, preemptive legislation is required. This bill:

Exempts oysters harvested from Texas waters and sold and consumed in Texas from any federal regulations that prohibit the interstate transport and sale of oysters that have not been postharvest treated.

Authority of a County to Inspect Certain Day-Care Facilities—S.B. 436

by Senator Nelson—House Sponsor: Representative Naishtat

Interested parties state that, in some cases, county health departments in certain counties are equipped to provide more efficient and effective inspections of day-care centers or group day-care homes than those of cities. This bill:

Defines "day-care center" and "group day-care home."

Authorizes, in a county with a population of 700,000 or more, a county health officer or official designated by the commissioners court to contract with a municipality for the county to conduct an inspection required by the municipality of a day-care center or group day-care home located in the municipality.

Educational Requirements for Speech-Language Pathologist or Audiologist—S.B. 613

by Senator Rodriguez—House Sponsor: Representative Alvarado

The educational standards for licensure as an audiologist in Texas, which currently require an applicant to possess a certain master's degree, may be inadequate when compared to industry standards and to the requirements of some other states, which require a doctoral degree or its equivalent. The requirement that a program be accredited by the American Speech-Language Hearing Association may be limiting, since there are other nationally recognized bodies currently in existence. This bill:

Specifies that the master's degree required of an applicant for licensing as a speech-language pathologist must be from a program accredited by a national accrediting organization approved by the State Board of Examiners for Speech Language Pathology and Audiology (board) and recognized by the United States secretary of education under the Higher Education Act of 1965, rather than from a program accredited by the American Speech-Language-Hearing Association, in an accredited or approved college or university.

Requires an applicant for a license in audiology, in order to be eligible for licensing as an audiologist, to possess at least a doctoral degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the board and recognized by the United States secretary of education under the Higher Education Act of 1965 in an accredited or approved college or university, in addition to meeting other eligibility requirements.

Authorizes a person who holds a license as an audiologist issued before the effective date of the legislation to continue to renew that license without complying with degree requirements established by the bill.

Expedited Credentialing of Certain Physicians—S.B. 822

by Senator Watson—House Sponsor: Representative Zerwas

Legislation enacted in 2007 was intended to expedite the credentialing process for physicians joining a medical group when the medical group is a participating provider with a managed care plan. The legislation required managed care plans to treat the applicant physician as if the physician were a participating provider during the credentialing process, allowing the applicant physician to collect copayments from enrollees of the managed care plan as well as receive payments from the managed care plan during the credentialing process. The legislation defines a "medical group" as a professional corporation or other business entity composed of licensed physicians, but does not include faculty practice plans, which prevents physician groups that are part of academic medical centers from taking advantage of the legislation. This bill:

Defines "medical group" as a single legal entity owned by two or more physicians; a professional association composed of licensed physicians; any other business entity composed of licensed physicians; or two or more physicians on the medical staff of, or teaching at, a medical school or medical and dental unit.

Prosthetic and Orthotic Providers—S.B. 874

by Senator Fraser—House Sponsor: Representative Craddick

Currently when orthotic and prosthetic suppliers enroll in Texas Medicaid, they are classified as a durable medical equipment supplier with a specialty of providing in-home hyperalimentation supplies. However, hyperalimentation suppliers provide supplies to individuals who require long-term nutritional support because of extensive bowel resection or severe abdominal bowel disease, causing some persons concern that the classification is inaccurate and confusing. This bill:

Requires HHSC or an agency operating part of the medical assistance program, as appropriate, to establish and implement a separate provider type for prosthetic and orthotic providers for purposes of enrollment as a provider of and reimbursement under the medical assistance program as soon as practicable after the legislation's effective date.

Prohibits HHSC from classifying prosthetic and orthotic providers under the durable medical equipment provider type.

Employment of Physicians by Certain Hospitals—S.B. 894

by Senator Duncan et al.—House Sponsor: Representative Coleman

Texas is one of only five states that continues to actively define or actively enforce some form of prohibition of the corporate practice of medicine. Texas does allow private nonprofit medical schools, school districts, nonprofit health organizations certified by TMB, federally qualified health care centers, and migrant, community, and homeless centers to employ physicians. The legislature has also allowed approximately 12 hospital districts to change their enabling legislation to employ physicians and the state is allowed to employ physicians to work in state academic medical centers, state hospitals, and prisons. This bill:

Applies only to a hospital that employs or seeks to employ a physician and that is designed as a critical access hospital; is a sole community hospital; or is located in a county with a population of 50,000 or less.

Establishes that this legislation may not be construed as authorizing the governing body of a hospital to supervise or control the practice of medicine.

Applies to medical services provided by a physician at the hospital and other health care facilities owned or operated by the hospital.

Authorizes the hospital to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital and other health care facilities owned or operated by the hospital.

Requires a hospital that employs physicians under this legislation to appoint a chief medical officer who has been recommended by the medical staff of the hospital and approved by the governing board of the hospital and adopt, maintain, and enforce policies to ensure that a physician employed by the hospital exercises the physician's independent medical judgment in providing care to patients at the hospital and other health care facilities owned or operated by the hospital.

Requires that adopted policies include policies relating to credentialing and privileges, quality assurance, utilization review, peer review and due process, and medical decision-making and the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment.

Requires that adopted policies be approved by the medical staff of the hospital.

Requires each physician employed by the hospital to ultimately report to the chief medical officer of the hospital.

Requires that in the event of a conflict between a policy adopted by the medical staff and a policy of the hospital, a conflict management process be jointly developed and implemented to resolve any such conflict.

Requires the chief medical officer to notify TMB that the hospital is employing physicians and that the chief medical officer will be the hospital's designated contact with TMB.

Requires the chief medical officer to immediately report to TMB any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

Requires the hospital to give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the hospital and physicians not employed by the hospital.

Requires that a physician employed by the hospital retain independent medical judgment in providing care to patients at the hospital and other health care facilities owned or operated by the hospital and provides that such a physician may not be disciplined for reasonably advocating for patient care.

Provides that If the hospital provides professional liability coverage for a physician employed by the hospital, the physician may participate in the selection of the professional liability coverage, has the right to an independent defense if the physician pays for that independent defense, and shall retain the right to consent to the settlement of any action or proceeding brought against the physician.

Provides that if a physician employed by the hospital enters into an employment agreement that includes a covenant not to compete, the agreement shall be subject to provisions in the Business & Commerce Code, and any other applicable provisions.

Waco Center for Youth Terminology Clarification—S.B. 957

by Senator Birdwell—House Sponsor: Representative Charles "Doc" Anderson

Certain youth who have been psychiatrically diagnosed as emotionally or behaviorally disturbed are eligible to be admitted to the Waco Center for Youth (center) for treatment. Current statute, however, uses the term "committed" to refer to this process, a term which may have a negative connotation. This bill:

Clarifies that DSHS use the center as a residential treatment facility for emotionally disturbed juveniles who have been admitted, rather than committed, to a facility of DSHS or are under the managing conservatorship of DFPS and have been admitted, rather than committed, to the center.

Public Health Funding and Policy Committee—S.B. 969

by Senator Nelson—House Sponsor: Representative Kolkhorst

Local health officials often learn about funding for public health priorities only weeks or days before funding is allocated, and funding allocation decisions are frequently made without regard to the specific public health needs of a community. Because these officials deal with public health issues such as infectious diseases, STDs and HIV, and food-borne illnesses on the local level, they should be involved in setting policy priorities and should have an established means by which to communicate their concern and suggestions to DSHS. This bill:

Defines "local health department," "local health entity," "local health unit," and "public health district."

Requires the commissioner of state health services to establish the Public Health Funding and Policy Committee (committee) within DSHS.

Requires the committee to define the core public health services a local health entity should provide in a county or municipality, evaluate public health in this state and identify initiatives for areas that need improvement; identify all funding sources available for use by local health entities to perform core public health functions; establish public health policy priorities for this state; and, at least annually, make formal recommendations to DSHS regarding certain topics and meeting certain requirements.

Provides that the committee is subject to the Texas Sunset Act and unless continued in existence as provided by that Act, the committee will be abolished and the relating chapter will expire September 1, 2023.

Sets forth provisions relating to the appointment of members, administrative costs, terms, vacancies, compensation and reimbursement, the presiding officer, meetings, public testimony, and support staff.

Requires the committee, beginning in 2012, to file, not later than November 30 of each year, a report on the implementation of these provisions with the governor, the lieutenant governor, and the speaker of the house of representatives.

Requires DSHS, beginning in 2012, to file, not later than November 30 of each year, an annual report detailing certain topics related to committee recommendations.

Requires DSHS to establish a continuous collaborative relationship with local health departments.

Requires DSHS, not later than June 30, 2012, to develop a plan, which must include a mechanism to ensure that the local health entities are accountable to DSHS for the funds allocated, to transition from contractual agreements with local health entities to cooperative agreements with local health entities; and provides that this section expires June 30, 2013.

Requires DSHS, in developing policy related to funding local health entities, to consult with the committee.

Regulation of Certain Child Care Facilities—S.B. 1178

by Senator Nelson—House Sponsor: Representative Raymond

DFPS is responsible for protecting children and certain other populations and regulates certain child care facilities, including day-care homes, day-care centers, and registered family homes. This bill:

Redefines "controlling person."

Authorizes a municipality that operates an elementary-age recreation program to accept, in lieu of an annual public hearing, public comment through the municipality's Internet website for at least 30 days before the municipality adopts standards of care by ordinance if the municipality meets certain conditions.

Requires DFPS to investigate a listed family home if DFPS receives a complaint that a child in the home has been abused or neglected, and otherwise alleges an immediate risk of danger to the health or safety of a child being cared for in the home.

Authorizes DFPS to investigate a listed family home to ensure that the home is providing care for compensation to not more than three children, excluding children who are related to the caretaker.

Requires DFPS to notify the operator of a listed family home when a complaint is being investigated under Section 42.044 (Inspections), Human Resources Code, and report in writing the results of the investigation to the family home's operator.

Requires DFPS, if the operator of a listed family home fails to submit the information required for a subsequent background and criminal history check, to automatically suspend the home's listing until the required information is submitted and revoke the home's listing if the required information is not submitted within six months after the date the automatic suspension begins, with neither a suspension or revocation constituting a suspension or revocation under Section 42.072 (License, Listing, or Registration Denial, Suspension or Revocation), Human Resources Code.

Provides that failure of a facility, agency, or home to pay the annual fee results in automatic suspension of the license, listing, or registration as appropriate until the fee is paid, and requires the license, listing, or registration to be revoked if the fee is not paid within six months of automatic suspension, with neither a suspension or revocation constituting a suspension or revocation under Section 42.072, Human Resources Code.

Requires certain entities, including the director, owner, or operator of a before-school or after-school program, or school-age program, to submit a complete set of fingerprints of each required person, but provides that this does not apply to certain exempt programs.

Provides certain requirements that a substitute employee to a facility or a family home must meet before being allowed to be present at a facility or a family home.

Prohibits a person from being employed as a controlling person or serving in that capacity in a facility or family home if the person is not eligible to receive a license or certification for the operation of a facility or family home or has been denied a license for a substantive reason; and prohibits a person from being a controlling person in any facility or family home during the five-year period in which the person is ineligible to receive a license, listing, registration, or certification, due to the revocation of a license, listing, registration, or certification, or the application of such is denied for a substantive reason.

Authorizes DFPS, notwithstanding certain other law, to refuse to issue a license, listing, registration, or certification to certain persons who meet certain conditions, including as the conditions relate to certain actions affecting the listing or registration of a facility, rather than a residential child care facility, or family home.

Authorizes DFPS to impose an administrative penalty against certain facilities or family homes, including ones that are listed, that violate certain provisions.

Defines "shelter," "shelter care," and "shelter day-care facility."

Prohibits a shelter from providing shelter care unless the shelter holds a permit issued by DFPS, except if a shelter is not required to obtain a permit to provide shelter care, if the shelter holds a certain license to operate a child care facility that is issued by DFPS, or if the shelter provides shelter care for less than four hours a day or for less than three days a week or for six or fewer children.

Prohibits DFPS from issuing a permit to a shelter that provides child care to a child who is not a shelter resident, requiring that the shelter that provides child care hold a license to operate a child care facility.

Requires DFPS to develop and implement a streamlined procedure by which a shelter may apply for and be issued a permit to operate a shelter day-care facility; and requires DFPS, on receipt of such an application, to conduct an initial inspection of the facility and conduct a background and criminal history check on each prospective caregiver whose name is submitted.

Requires DFPS to develop and implement a procedure by which a shelter that holds a license to operate a child care facility that is issued before September 1, 2012, may convert the license to a permit to operate a shelter day-care facility.

Requires the executive commissioner of HHSC to adopt rules that specify the minimum qualifications and training required for a person providing child care in a shelter day-care facility and child-to-caregiver ratios in a shelter day-care facility, and provides certain consideration for the executive commissioner to consider in so doing.

Provides requirements and conditions regarding background and criminal history checks of required persons of a shelter day-care facility.

Provides that, except as otherwise provided, a shelter day-care facility is not a child care facility and that certain provisions that apply to a licensed child care facility do not apply to a shelter day-care facility; and provides that a shelter day-care facility and its employees are subject to the reporting of incidents and violation requirements to the same extent a licensed child care facility and its employees are subject to that requirement.

Authorizes DFPS to inspect a shelter day-care facility if DFPS receives a complaint or report of child abuse or neglect alleged to have occurred at the shelter day-care facilities, and sets forth provisions regarding authorizing DFPS to require corrective action by the facility and certain fees.

Authorizes DFPS to suspend, deny, or revoke a permit issued to a shelter if the shelter does not comply with applicable provisions and rules; and authorizes DFPS to refuse to issue a permit to a shelter that had its authorization to operate a child care facility issued under other provisions revoked, suspended, or not renewed for a reason relating to child health or safety.

Provides that a shelter day-care facility is subject to the emergency suspension of its permit to operate and to closure to the same extent and in the same manner as a licensed child care facility is subject.

Authorizes DFPS to deny, revoke, suspend, or refuse to renew a license, or place on probation or reprimand a child care administrator of a child care institution or a child-placing administrator license holder for certain actions, including for having a criminal history relevant to the duties of a licensed child care or child-placing administrator, as those duties are specified in rules adopted by the executive commissioner.

Provides that a person, agency, department, political subdivision, or other entity entitled to access the criminal history records of a person as allowed under the provision that DPS is authorized to provide access to a state and national criminal history record to qualified entities, rather than nongovernmental entities, entitled to that information is not required to collect or submit the person's fingerprints if certain conditions are met.

Removes the definition for "maternity home," removes subsequent references to the term in Section 411.114 (Access to Criminal History Record Information: Department of Protective and Regulatory Services), Government Code, and updates agency and entity titles.

Removes an administrator or director of a maternity home from the list of persons required to report to the local health authority or DSHS a suspected case of a reportable disease and all information known concerning the person who has or is suspected of having the disease if a report is not made as required.

Requires DFPS to develop and implement a procedure by which a maternity home that provides residential child care to a minor mother and that holds a maternity home license before September 1, 2012, may convert the license to a licensed residential child care facility.

Repeals Chapter 249 (Maternity Homes), Health and Safety Code, and Section 42.042(g-2) (relating to requiring the executive commissioner to adopt specific rules and minimum standards for a child care facility that is located in a temporary shelter), Human Resources Code.

Impaired Pharmacists, Pharmacy Students, and Pharmacy Technicians—S.B. 1438

by Senator Van de Putte—House Sponsor: Representative Hopson

TSBP is charged with the licensure and discipline of pharmacists and pharmacies, including pharmacists, pharmacist-interns, and pharmacy technicians. The Professional Recovery Network (PRN) of the Texas Pharmacy Association assists in providing assistance to such pharmaceutical professionals and certain pharmaceutical students who are impaired and assist in conducting peer review. The disclosure and confidentiality protections regarding some information relating to disciplinary reports on impaired pharmacists may be insufficient. This bill:

Provides that all records and proceedings of TSBP, an authorized agent of TSBP, or a pharmaceutical organization committee relating to the administration of the program to aid impaired pharmacists and pharmacy students and pharmacy peer review, rather than certain other records, are confidential and not considered public information, and includes records relating to a potentially impaired pharmacist or pharmacy student that are considered confidential.

Provides that such a record or proceeding is not subject to disclosure, subpoena, or discovery, except to a member of TSBP or a TSBP-authorized agent involved in the discipline of an applicant or license holder.

Authorizes TSBP to disclose such confidential information only, in addition to certain existing circumstances, during a SOAH proceeding or a panel of TSBP, or to certain persons providing a service to TSBP related to a disciplinary hearing against an applicant or license holder, if the information is necessary for preparation for, or a presentation in, the proceeding, and provides that such information that is disclosed remains confidential and is not subject to discovery or subpoena in a civil suit and may not be introduced as evidence in any action other than an appeal of a TSBP action.

Provides that such confidential information admitted under seal in a proceeding conducted by SOAH is confidential information for the purpose of a subsequent trial or appeal.

Adds an additional category of persons who provide in good faith information, reports, or records, under statute, to aid an impaired pharmacist or pharmacy student as persons who are immune from civil liability to include TSBP as it is authorized to report to a committee of the professional society or the society's designated staff information that TSBP receives relating to a pharmacist or pharmacy student who may be impaired by chemical abuse or mental or physical illness.

Requires an authorized agent of TSBP, or TSBP as already required, on probable cause, as determined by TSBP or the agent, in enforcing TSBP's authorization to discipline an applicant for or the holder of a current or expired license to practice pharmacy if TSBP finds that the applicant or license holder has committed certain actions, including used alcohol or drugs in an intemperate manner that, in TSBP's opinion, could endanger a patient's life, to request a pharmacist, pharmacist applicant, pharmacist-intern, or pharmacist-intern applicant to submit to a mental or physical examination by a physician or other health care professional designated by TSBP.

Provides a required modified procedure and hearing to be followed in a situation in which a pharmacist, pharmacist applicant, pharmacist-intern, or pharmacist-intern applicant refuses to submit to the examination.

Provides that such a person who refuses to submit to the examination has the burden of proof to show why he or she should not be required to submit to the examination.

Authorizes, notwithstanding certain other law, information or material compiled by TSBP in connection with an investigation to be disclosed during a SOAH proceeding, to TSBP, or a panel of TSBP; to certain entities, including certain persons providing a service to TSBP related to a disciplinary hearing against an applicant or license holder, or a subsequent trial or appeal, if the information is necessary for preparation for, or a presentation in, the proceeding; or under a court order.

Requires the panel to impose certain disciplinary actions, including restricting a license or suspending a license as is already allowed, if a majority of the disciplinary panel determines that the holder of a license, removing the holder of a registration, by continuation in the practice of pharmacy or in the operation of a pharmacy would constitute a continuing threat to the public welfare.

Authorizes a disciplinary panel to temporarily suspend or restrict a license if certain conditions are met relating to conducting a hearing and/or meeting certain timelines.

Requires TSBP, not later than the 90th day after the date of the temporary suspension or restriction, to initiate a disciplinary action, and requires a contested case hearing be held by SOAH, and provides that if such a hearing is not held in the time required, the suspended or restricted license is automatically reinstated.

Authorizes an authorized agent of TSBP, or TSBP as already authorized, on probable cause, as determined by TSBP or the agent, in enforcing TSBP's authorization to discipline a pharmacy technician applicant or registrant if TSBP determines that the applicant or license holder has committed certain actions, including violated the pharmacy or drug laws or rules of Texas, another state, or the United States, to request a pharmacy technician to submit to a mental or physical examination by a physician or other health care professional designated by TSBP; and provides a required modified procedure and hearing to follow in a situation in which the person refuses to submit to the examination.

Provides that the pharmacy technician has the burden of proof to show why the person should not be required to submit to the examination.

Requires the president of TSBP to appoint a disciplinary panel consisting of three TSBP members to determine whether a pharmacy technician registration should be temporarily suspended or restricted, and requires the panel, if a majority of the panel determines that the registrant by continuation in practice as a pharmacy technician would constitute a continuing threat to the public welfare, to temporarily suspend or restrict the registration.

Authorizes a disciplinary panel to temporarily suspend or restrict the registration if certain conditions are met relating to conducting a hearing and/or meeting certain timelines.

Requires TSBP, not later than the 90th day after the date of the temporary suspension or restriction, to initiate a disciplinary action, and requires a contested case hearing be held by SOAH, and provides that if such a hearing is not held in the time required, the suspended or restricted registration is automatically reinstated.

Alternative for Chemical Dependency Treatment Facilities—S.B. 1449

by Senator Zaffirini—House Sponsor: Representative Raymond

Current law authorizes the state to require an inspection in order to renew a license to operate a treatment facility to treat chemically dependent persons, which means that chemical dependency treatment facilities that are accredited by outside organizations, such as the Joint Commission or the Commission on Accreditation of Rehabilitation Facilities (CARF), which often require higher standards than the state, undergo multiple inspections for renewal of their license. This bill:

Authorizes DSHS, rather than the Texas Commission on Alcohol and Drug Abuse, to require an inspection, and provides an exception to this inspection requirement if the applicant submits an accreditation review from CARF, the Joint Commission, or another national accreditation organization recognized by DSHS.

Defines "accreditation commission."

Requires DSHS to accept an accreditation review from an accreditation commission for a treatment facility instead of an inspection by DSHS for renewal of a license, but only if the treatment facility is accredited by certain accreditation commissions; the accreditation commission maintains and updates an inspection or review program that, for each treatment facility, meets DSHS's applicable minimum standards; the accreditation commission conducts a regular on-site inspection or review of the treatment facility according to the accreditation commission's guidelines; and the treatment facility submits to DSHS a copy of its most recent accreditation review from the accreditation commission in addition to certain documents and fees required for a renewal of a license.

Provides that these provisions do not limit DSHS in performing any authorized duties, investigations, or inspections.

Provides that a treatment facility is not required to obtain accreditation from an accreditation commission.

Regulation of Health Organizations Certified by the Texas Medical Board—S.B. 1661

by Senator Duncan—House Sponsor: Representative Hunter

Texas continues to enforce some prohibitions on the corporate practice of medicine, but some types of health organizations certified by TMB are allowed to employ physicians. Current law does not provide for the protection of the independent medical judgment of a physician employed by these health organizations. This bill:

Provides that a health organization certified by TMB may not interfere with, control, or otherwise direct a physician's professional judgment.

Requires a certified health organization to adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients.

Requires that the rules adopted by the certified health organization include policies relating to credentialing, quality assurance, utilization review, and peer review.

Requires that adopted policies be developed by the board of directors or board of trustees, as applicable, of the health organization; approved by an affirmative vote; and drafted and interpreted in a manner that reserves the sole authority to engage in the practice of medicine to a physician participating in the health organization, regardless of the physician's employment status with the health organization.

Provides that a physician employed by a certified health organization retains independent medical judgment in providing care to patients, and the health organization may not discipline the physician for reasonably advocating for patient care.

Establishes that the requirements of this legislation may not be voided or waived by contract.

Provides that a member of a certified health organization may establish ethical and religious directives and a physician may contractually agree to comply with those directives.

Authorizes TMB, on a determination that a health organization is established, organized, or operated in violation of or with the intent to violate this legislation, to refuse to certify the health organization; to revoke a certification made; or to impose an administrative penalty against the health organization.

Emergency Radio Infrastructure Account—H.B. 442

by Representative Guillen et al.—Senate Sponsor: Senator Williams

In 2008, the Texas Radio Coalition (TxRC) provided recommendations so that Texas could meet United States Department of Homeland Security standards for a statewide network of interoperable radio systems. The Department of Public Safety of the State of Texas (DPS) worked with TxRC during the interim to review and revise those recommendations. DPS estimated that the total cost of the statewide network of interoperable radio system would be \$813 million, with \$393 million provided in federal grants through 2015. The state's share would be \$420 million, or \$84 million a year for the next five years. Section 133.102 (Consolidated Fees Conviction), Local Government Code, requires the comptroller to allocate money received from certain court costs to various criminal justice programs, including the fugitive apprehension program. There is concern that current statute does not adequately address the establishment of an emergency radio infrastructure account to be used for various state homeland security-related purposes. This bill:

Authorizes fees collected under Section 133.102(e)(11) (relating to requiring the comptroller of public accounts to allocate to the apprehension account 12.904 percent of court costs), Local Government Code, to be used for the planning, development, provision, enhancement, or ongoing maintenance of an interoperable statewide emergency radio infrastructure; be used in accordance with the statewide integrated public safety radio communications plan developed under Subchapter F (Governor's Interoperable Radio Communications Program), Chapter 421 (Homeland Security); be used for the development of a regional or state interoperable radio communication system; be distributed as grants by DPS to regional councils of government that have entered into interlocal agreements authorized under state law; and state agencies requiring emergency radio infrastructure; or be used for other public safety purposes.

Prohibits the fees collected and distributed from being used to purchase or maintain radio subscriber equipment.

Provides that the emergency radio infrastructure account is an account in the general revenue fund.

Provides that the account consists of fees deposited in the account as provided by Section 133.102(e)(11), Local Government Code; and notwithstanding Section 404.071 (Disposition of Interest on Investments), all interest attributable to money held in the account.

Authorizes money in the account be appropriated to DPS for certain purposes.

Parole for Criminal Illegal Aliens—H.B. 2734

by Representatives Madden and Charlie Howard—Senate Sponsor: Senator Williams

Concerns have been raised that United States Immigration and Customs Enforcement, in taking possession of an offender from the Texas Department of Criminal Justice (TDCJ) for deportation purposes, often releases the offender without deportation to the offender's country of origin. There is a need to provide for certain mandatory conditions and the revocation of parole or mandatory supervision for certain criminal illegal aliens in Texas. This bill:

Requires a parole panel to require as a condition of parole or mandatory supervision that an criminal illegal alien released to the custody of United States Immigration and Customs Enforcement, regardless of whether a final order of deportation is issued with reference to the criminal illegal alien, leave the United States as soon as possible after release; and not unlawfully return to or unlawfully reenter the United States in violation of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

Provides that if a parole panel or designated agent of the Board of Pardons and Paroles determines that a releasee has violated a condition of release, and confirms the violation with a peace officer or other law enforcement officer of

this state who is authorized under federal law to verify a person's immigration status or, in accordance with 8 U.S.C. Section 1373(c), with a federal law enforcement officer, that determination is considered to be a sufficient hearing to revoke the parole or mandatory supervision without further hearing or determination, except that the parole panel or designated agent is required to conduct a hearing to consider mitigating circumstances, if requested by the releasee.

Fusion Center Operations—H.B. 3324

by Representatives McClendon and Thompson—Senate Sponsor: Senator Watson

In response to the September 11, 2001, terrorist attacks on the United States and ongoing terrorist threats, the United States Department of Homeland Security and the United States Department of Justice (DOJ) developed the concept of fusion centers to facilitate the exchange and sharing of information among public safety organizations regarding persons of interest.

Federal grants to local communities have helped facilitate the creation of numerous fusion centers around the nation. Early centers had lax or inconsistent policies regarding the collection of information, as well as for the use and storage of that information. Since that time, DOJ has released guidelines for best practices in response to many concerns and obvious issues at some centers nationally, including one specifically in Texas. The Austin Regional Intelligence Center was the first fusion center DOJ recognized as meeting those best practices from its inception. There is currently no oversight at the state level for fusion centers in Texas. This bill:

Requires the governor's homeland security strategy to coordinate homeland security activities among and between local, state, and federal agencies and the private sector and to include specific plans for certain things, including directing the Texas Fusion Center (center) and giving the center certain forms of authority to implement the governor's homeland security strategy.

Requires the center to serve as the state's primary entity for the planning, coordination, and integration of government communications capabilities to help implement the governor's homeland security strategy and ensure an effective response in the event of a homeland security emergency.

Provides that the center's duties include, among other certain duties, making recommendations to DPS regarding the monitoring of fusion centers operating in this state and regarding the functions of the Texas Fusion Center Policy Council (policy council).

Requires DPS to create the policy council and the bylaws for the policy council to assist DPS in monitoring fusion center activities in this state.

Provides that the policy council is composed of one executive representative from each recognized fusion center operating in this state.

Requires the policy council to develop and disseminate strategies to facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in this state; expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises and to continuously review critical issues pertaining to homeland security activities; establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to meet at the direction of the policy council; and recommend best practices for each fusion center operating in this state.

Provides that the best practices should include practices to ensure that the center adheres to federal law designed to protect privacy and the other legal rights of individuals; and best practices for the smooth exchange of information among all fusion centers operating in this state.

Requires DPS, after considering the recommendations of the center, to adopt rules to govern the operations of fusion centers in this state, including guidelines for any fusion center operating in this state; establish a common concept of operations to provide clear baseline standards for each aspect of the center's activities; inform and define the monitoring of those activities by the policy council; and ensure that any fusion center operating in this state adheres to state and federal laws designed to protect privacy and the other legal rights of individuals and any other law that provides clear standards for the treatment of intelligence and for the collection and storage of noncriminal information, personally identifiable information, and protected health information.

Authorizes DPS to require that a fusion center audited under applicable DPS rules pay any costs incurred by the policy council in relation to the audit.

Prohibits a member of the policy council from receiving compensation but entitles the member to reimbursement for the member's travel expenses.

Prohibits a fusion center from receiving state grant money if the fusion center adopts a rule, order, ordinance, or policy under which the fusion center fails or refuses to comply with rules adopted by DPS beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy.

Requires each fusion center operating in this state to adopt a privacy policy providing at a minimum that, with respect to an individual or organization, the fusion center will not seek, collect, or retain information that is based solely on any of the following factors, as applicable to that individual or organization: religious, political, or social views or activities, participation in a particular organization or event; or race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation; and will take steps to ensure that any agency that submits information to the fusion center does not submit information based solely on religious, political, or social views or activities.

Requires the policy council annually to submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year, the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy; the progress made by fusion centers operating in this state in meeting the fusion center guidelines developed under the Department of Homeland Security State, Local, and Regional Fusion Center Initiative; and a summary of fusion center audits or reviews conducted under applicable rules adopted by DPS.

Criminal Offenses Related to a Federal Special Investigator—H.B. 3423

by Representative Lozano—Senate Sponsor: Senator Hinojosa

Currently, if someone commits certain crimes against federal special investigators, such as fleeing from a border patrol agent, making a false report to a Federal Bureau of Investigation (FBI) agent, or attempting to take a weapon from a federal special investigator, it is difficult to charge the offender in state court. This bill:

Expands the conditions for which the false report to peace officer or law enforcement employee provisions apply, including making a false statement to a federal special investigator. Makes the offense punishable as a Class B misdemeanor.

Expands the conditions for which the evading arrest or detention provisions apply, including fleeing from a federal special investigator. Makes this offense punishable in a range from a Class A misdemeanor to a felony of the second degree.

Expands the conditions for which the taking or attempting to take a weapon from certain officials provisions apply, including taking or attempting to take a weapon from a federal special investigator. Makes this offense punishable as a state jail felony or a felony of the third degree.

Regulation of Telecommunicators—H.B. 3823

by Representative Thompson—Senate Sponsor: Senator Ellis

Current training standards for emergency service telecommunicators require only one basic training course. This minimal training is waived for persons acting as telecommunicators for law enforcement agencies that employ 20 or fewer persons, putting officers and citizens at potential risk on a daily basis and causing operational security concerns. Current training standards allow a telecommunicator with little training to make life and death decisions and act as a lifeline to law enforcement officers. This bill:

Authorizes the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to perform certain actions, including to establish minimum standards relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as an officer, county jailer, or public security officer or employment as a telecommunicator; and to require a state agency or a county, special district, or municipality in this state that employs officers, telecommunicators, or county jailers to submit reports and information.

Requires TCLEOSE to establish certain reporting standards and procedures, including the appointment or employment and the termination of officers, county jailers, and telecommunicators by law enforcement agencies.

Authorizes TCLEOSE to visit and inspect a school conducting a training course for officers, county jailers, telecommunicators, or recruits and make necessary evaluations to determine if the school complies with this chapter and TCLEOSE rules.

Requires TCLEOSE to develop a risk assessment method to determine the relative performance of schools conducting training courses for officers, county jailers, telecommunicators, or recruits.

Provides that a person who has been convicted of a felony is disqualified from being an officer, public security officer, telecommunicator, or county jailer, and TCLEOSE is prohibited from issuing a license to, and a law enforcement agency is prohibited from appointing or employing, the person.

Provides that a person who has been convicted of barratry is disqualified to be an officer, telecommunicator, or county jailer, and TCLEOSE may not issue a license to the person.

Requires TCLEOSE to require a state, county, special district, or municipal agency that employs telecommunicators to provide each telecommunicator with 24 hours of crisis communications instruction approved by TCLEOSE.

Requires that the instruction be provided on or before the first anniversary of the telecommunicator's first day of employment.

Requires TCLEOSE, as a requirement for a basic proficiency certificate, to require completion of local courses or programs of instruction on federal and state statutes that relate to employment issues affecting peace officers, telecommunicators, and county jailers, including civil service; compensation, including overtime compensation, and vacation time; personnel files and other employee records; management-employee relations in law enforcement organizations; work-related injuries; complaints and investigations of employee misconduct; and disciplinary actions and the appeal of disciplinary actions.

Prohibits this state or a political subdivision of this state from employing a person, or appointing or employing a person, to act as a telecommunicator unless the person has had at least 40 hours of telecommunicator training as determined by TCLEOSE; is at least 18 years of age; and holds a high school diploma or high school equivalency certificate.

Provides that a person commits an offense if the person appoints, employs, or retains an individual as an officer, public security officer, telecommunicator, or county jailer who has been convicted of barratry, convicted of a felony, or has been placed on community supervision.

Registration for Selective Service—S.B. 132

by Senator Wentworth—House Sponsor: Representative Flynn

In accordance with the Military Selective Service Act, 50 U.S.C. App 453, any male United States citizen who is at least 18 but less than 26 years of age must register with the United States Selective Service System. Texas currently ranks 49th in the nation for registration completion by 19-year-old men. If a man is not registered before he turns age 26, he forfeits the opportunity to ever register, has violated federal law, and could lose benefits linked to registration, including federal and state student financial aid, jobs, and job training.

The Texas Transportation Code currently requires the DPS to offer the option of registration with the Selective Service System upon application for a driver's license or personal identification card. This bill:

Requires DPS after an application for an original, renewal, or duplicate driver's license or personal identification certificate is submitted by a male applicant who on the date of the application is at least 18 years of age but younger than 26 years of age, to send in an electronic format to the United States Selective Service System the information from the application necessary to register the applicant under the Military Selective Service Act (50 U.S.C. App. Section 451 et seq.).

Requires that an application form gives written notice to an applicant that the application also constitutes registration with the United States Selective Service System for persons who are subject to registration and have not previously registered.

Requires that the notice be conspicuous on the application form and contain certain language.

Provides that the applicant's submission of the application following this notification constitutes the applicant's consent to the sending of the information and the registration.

Requires an application form to give written notice to an applicant that information regarding alternative service options for applicants who object to conventional military service for religious or other conscientious reasons is available from the department upon request.

Provides that this bill does not apply to an applicant concerning whom DPS has previously sent information to the Selective Service System.

Granting Limited State Law Enforcement Authority to Veterans Affairs Agents—S.B. 150

by Senator West—House Sponsor: Representative Sid Miller

The Office of the Inspector General (OIG) is the law enforcement arm of the United States Department of Veterans Affairs (VA). One of two field offices in Texas is located at the Veterans Hospital in Dallas. Special agents of the OIG previously had law enforcement authority through the United States Marshals Service via special deputation. That changed in 2003, when Section 812 of the Homeland Security Act of 2002 (Public Law 107-296) granted separate law enforcement authority.

Under Texas law, VA/OIG special agents cannot perform an arrest on a felony warrant. Such actions require the presence of local law enforcement. VA/OIG special agents are not Texas peace officers under Article 2.12 (Who Are

Peace Officers), Code of Criminal Procedure. However, Article 2.122 (Special Investigators) authorizes various special agents of federal agencies under Texas law.

The VA/OIG is empowered to conduct audits, investigate fraud, perform inspections, and investigate any crime that takes place on VA property or that is related to VA programs and patients. This bill:

Grants limited state law enforcement authority to special agents of VA/OIG.

Updates certain references related to the grant of that authority to other federal law enforcement personnel.

Compiling Information on Criminal Street Gangs—S.B. 315

by Senator Carona et al.—House Sponsor: Representative Madden

The 81st Legislature passed legislation that mandated the collection of data by local law enforcement agencies and sharing of the data with the already existing Texas Gang Database for the purpose of investigating and prosecuting criminal street gangs in cities with a population of 50,000 or more or counties with a population of 100,000 or more. However, there has been some confusion regarding the definition of "law enforcement agency"; specifically, whether that definition includes "juvenile justice agency," as the legislation mandates "law enforcement agencies" to directly release such information to DPS. Additionally, in order to reduce transnational gang violence, it would be helpful to include certain federal representatives in the meetings and activities of the Texas Violent Gang Task Force (task force). This bill:

Requires a criminal justice agency or a juvenile justice agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more to compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of criminal combinations or criminal street gangs.

Authorizes information to be compiled on paper, by computer, or in any other useful manner by a criminal justice agency, juvenile justice agency, or law enforcement agency.

Authorizes a criminal justice agency or a juvenile justice agency to release information maintained to an attorney representing a child who is a party to a proceeding under Title 3 (Juvenile Justice Code), Family Code, if the juvenile court determines the information is material to the proceeding and is not privileged under law.

Provides that the purpose of the task force is to form a strategic partnership among local, state, and federal criminal justice, juvenile justice, and correctional agencies, rather than between state, federal, and local law enforcement agencies, to better enable those agencies to take a proactive stance towards tracking gang activity and the growth and spread of gangs statewide.

Requires the task force to focus its efforts on developing, through regional task force meetings, a statewide networking system that will provide timely access to gang information; establishing communication between different criminal justice, juvenile justice, and correctional agencies, combining independent agency resources, and joining agencies together in a cooperative effort to focus on gang membership, gang activity, and gang migration trends; and forming a working group of criminal justice, juvenile justice, and correctional representatives from throughout the state to discuss specific cases and investigations involving gangs and other related gang activities.

Sets forth the required composition of the task force.

Requires the task force, if practicable, to consult with representatives from one or more United States Attorney's Offices in this state and with representatives from the following federal agencies who are available and assigned to a duty station in this state: the FBI; the Federal Bureau of Prisons; the United States Drug Enforcement Administration

(DEA); United States Immigration and Customs Enforcement (ICE); United States Customs and Border Protection; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the United States Marshals Service; and the United States Probation and Pretrial Services System.

Granting State Law Enforcement Authority to Certain Federal Agents—S.B. 530

by Senators Huffman and Carona—House Sponsor: Representative Sid Miller

The Texas Code of Criminal Procedure grants several investigatory agents of federal departments the designation of special investigators in Texas. This designation gives certain federal criminal investigators the powers of arrest, search, and seizure while performing their duties in Texas. Currently, the designation of special investigator is extended to the agents of 11 federal agencies, including the FBI, the United States Secret Service, ICE, DEA, and the United States Marshals Service. However, agents of the Social Security Administration, Office of the Inspector General (SSA/OIG), are not among this list.

SSA/OIG agents discover fraudulent receipt of food stamps, Medicaid benefits, Medicare premium payments, and other need-based aid administered by the Health and Human Services Commission.

Typically, investigations by SSA/OIG agents lead to prosecutions by United States attorneys (U.S. attorney). However, if a case arises with joint state and federal jurisdiction and a U.S. attorney declines to prosecute, the information gathered during the investigation can be turned over to a local or state prosecutor. Because SSA/OIG agents do not have the special investigator designation, local law enforcement officials must be brought into the investigation so that the information is guaranteed to be usable by the prosecutor. Local law enforcement officials are then required to swear an affidavit for an arrest warrant or testify before an indicting grand jury, even though they have not been a part of the investigation. This bill:

Adds agents of SSA/OIG to the list of federal agencies whose agents have the designation of special investigator.

Includes language to ensure that the agencies already granted designation of special investigators are identified correctly to reflect updated agency names.

Energy Efficiency Reports and Emergency Notification Systems—S.B. 924

by Senator Carona—House Sponsor: Representative Keffer

A municipally owned electric utility (MOEU) with retail sales of over 500,000 megawatts is required to administer energy savings programs, while an electric cooperative (co-op) is only required to consider administering energy savings programs. The 80th Legislature, Regular Session, 2007, required MOEUs and co-ops to report on the combined effects of energy efficiency activities to the State Energy Conservation Office (SECO). Additionally, the Government Code requires the Division of Emergency Management of DPS and the Texas Department of Transportation (TxDOT), in cooperation with other state agencies, to establish methods of disseminating emergency public service messages, but there are no minimum requirements set forth in statute for this system. During disasters or emergencies, it is critical for public service providers to be able to communicate critical information to affected persons regarding the status of water, power supplies, and other similar public services. However, increased use of conventional telephone service and Internet services can overwhelm the telecommunications network, preventing transmission of important communications at a critical time. This bill:

Requires an MOEU, beginning April 1, 2012, to report each year to SECO, on a standardized form developed by SECO, information regarding the combined effects of the energy efficiency activities of the utility from the previous calendar year, including the utility's annual goals, programs enacted to achieve those goals, and any achieved energy demand or savings goals.

Requires a co-op that had retail sales of more than 500,000 megawatt hours in 2005, beginning April 1, 2012, to report each year to SECO, on a standardized form developed by SECO, information regarding the combined effects of the energy efficiency activities of the electric cooperative from the previous calendar year, including the electric cooperative's annual goals, programs enacted to achieve those goals, and any achieved energy demand or savings goals.

Requires SECO to provide the reports to the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System (laboratory).

Requires the laboratory to calculate the energy savings and estimated pollution reductions that resulted from the reported activities and to share the results of the analysis with the Public Utility Commission of Texas (PUC), the Electric Reliability Council of Texas (ERCOT), the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality.

Authorizes a public service provider to enter into a contract for an emergency notification system described for use in informing the provider's customers, governmental entities, and other affected persons regarding notice of a disaster or emergency; and any actions a recipient is required to take during a disaster or emergency.

Requires the emergency notification system for which a contract is entered into to rely on dynamic information database that:

- is capable of simultaneous transmission of emergency messages to all recipients through at least two industry-standard gateways to one or more telephones or electronic devices owned by a recipient in a manner that does not negatively impact the existing communications infrastructure;
- allows the public service provider to store prewritten emergency messages in the dynamic information database for subsequent use; and generate emergency messages in real time based on provider inputs;
- allows a recipient to select the language in which the recipient would prefer to receive messages;
- transmits the message in the recipient's language of choice to that recipient;
- converts text messages to sound files and transmits those sound files to the appropriate device;
- assigns recipients to priority groups for notification;
- allows for the collection and verification of responses by recipients of emergency messages; and
- reads or receives alerts from a commercial mobile alert system established by the Federal Communications Commission (FEC) or complies with standards adopted for a commercial mobile alert system established by the FEC.

Requires the dynamic information database to comply with the Telecommunications Service Priority program established by the FEC and the Federal Information Processing Standard 140-2 governing compliant cryptographic modules for encryption and security issued by the National Institute of Standards and Technology.

Requires a public service provider, before sending a notice, to provide a copy of the notice to the emergency management director for each political subdivision for which the public service provider provides services at the time of the notice; and during a disaster declared by the governor or United States government, obtain approval of the notice from the emergency management director for each political subdivision for which the public service provider provides services during the disaster.

Authorizes a customer of a public service provider to decline to receive the notices by providing written notice of that decision to the public service provider.

Requires a public service provider to cooperate with emergency management officials of each political subdivision in which the public service provider provides services to survey the number of notification systems in place.

Priorities for Restoration of Electric Service—S.B. 937

by Senator Lucio—House Sponsor: Representative Naishtat

Currently, electric companies follow guidelines for power restoration, prioritizing services vital to public safety. PUC has rules that require that critical load customers be prioritized for the restoration of power and municipally owned electric utilities and electric cooperatives currently have a prioritization process in place. Hospitals by rule are required to be a priority for the purposes of power restoration; however, nursing homes, assisted living facilities, and hospice care centers are not. These facilities provide medical care, and some patients, particularly those in nursing homes, are reliant on medical equipment that runs on electricity. Nursing homes are required to provide costly back-up generators in the event of a storm and evacuate if ordered to do so by the city. This bill:

Requires PUC by rule to require an electric utility to give to the following facilities the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage: a nursing facility, an assisted living facility, and a facility that provides hospice services.

Requires that rules adopted by PUC allow an electric utility to exercise the electric utility's discretion to prioritize power restoration for a facility after an extended power outage in accordance with the facility's needs and with the characteristics of the geographic area in which power must be restored.

Requires a municipally owned utility to report the emergency operations plan for restoring power to a facility to the municipality's governing body or the body vested with the power to manage and operate the municipally owned utility.

Requires an electric cooperative to report the emergency operations plan for restoring power to a facility to the board of directors of the electric cooperative.

Liability of Local Emergency Management or Homeland Security Organizations—S.B. 1560

by Senator Ellis—House Sponsor: Representative Larry Taylor

With various emergency situations, such as hurricanes and floods, augmentation of local emergency services requires manpower, cross-training with similar basic skill sets (police, firefighting, emergency medical services, communications, search and rescue), and include the ability to assume limited support functions within each responding organization. This bill:

Includes in the definition of "emergency service organization" a local emergency management or homeland security organization that is formed and operated as a state resource in accordance with the statewide homeland security strategy developed by the governor and responsive to the Texas Division of Emergency Management in carrying out an all-hazards emergency management program.

Inmates Subject to Federal Immigration Detainers—S.B. 1698

by Senator Williams—House Sponsor: Representative Callegari

The Texas Commission on Jail Standards (TCJS) currently issues a monthly population report. However, there is no requirement to require TCJS to include in that monthly report the number of persons claiming foreign citizenship in Texas jails. This bill:

Requires each county to submit to TCJS on or before the fifth day of each month a report containing the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories; prisoners who are not citizens or nationals of the United States; are unlawfully present in the United States according

to the terms of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.); and the total cost to the county during the preceding month of housing those prisoners.

Private Transfer Fees—H.B. 8

by Representative Darby et al.—Senate Sponsor: Senator Harris

The Texas Legislature previously enacted legislation to prohibit a real estate practice whereby a private entity could create a real estate transfer fee payable over a long period of time by placing a deed restriction on a property requiring such a fee in connection with a future transfer of the property. The current law includes certain exemptions, creating a situation that has resulted in substantial efforts by certain persons to circumvent the law through creative interpretation of the language. This bill:

Adds Subchapter G (Certain Private Transfer Fees Prohibited; Preservation of Private Real Property Rights), Property Code.

Provides that except as provided by Subchapter G, a private transfer fee obligation created on or after the effective date of Subchapter G is not binding or enforceable against a subsequent owner or subsequent purchaser of an interest in real property and is void.

Provides that certain payments are not considered private transfer fee obligations, including:

- consideration paid by a purchaser to a seller for an interest in real property transferred, including, as applicable, a mineral interest transferred, including additional consideration paid to a seller for the property's appreciation, development, or sale after the interest in the property has been transferred to the purchaser, if the additional consideration is paid only once and that payment does not bind successors in interest to the property to any private transfer fee obligation;
- a commission paid to a licensed real estate broker under a written agreement between a seller or purchaser and the broker, including an additional commission for the property's appreciation, development, or sale after the interest in property is transferred to the purchaser;
- interest, a fee, a charge, or another type of payment to a lender under a loan secured by a mortgage on the property, including a fee payable for the lender's consent to an assumption of the loan or transfer of the property subject to the mortgage; a fee or charge payable for an estoppel letter or certificate; a shared appreciation interest or profit participation; or other consideration payable in connection with the loan;
- rent, reimbursement, a fee, a charge, or another type of payment to a lessor under a lease, including a fee for consent to an assignment, sublease, encumbrance, or transfer of a lease;
- consideration paid to the holder of an option to purchase an interest in property, or to the holder of a right of first refusal or first offer to purchase an interest in property, for waiving, releasing, or not exercising the option or right when the property is transferred to another person;
- a fee payable to or imposed by a governmental entity in connection with recording the transfer of the property;
- dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment under a declaration or other covenant or under law, including a fee or charge payable for a change of ownership entered in the records of an association to which this subdivision applies or an estoppel letter or resale certificate issued under Section 207.003 (Delivery of Subdivision Information to Owner) by an association to which this subdivision applies or the person identified under Section 209.004(a)(6) (relating to the name and mailing address of the person managing the association), provided that no portion of the fee or charge is required to be passed through to a third party designated or identifiable in the declaration or other covenant or law or in a document referenced in the declaration or other covenant or law, unless paid to certain associations;
- dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment for the transfer of a club membership related to the property;
- dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment paid to an organization exempt from federal taxation under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986, only if the organization uses the payments to directly benefit the encumbered property by supporting

or maintaining only the encumbered property; constructing or repairing improvements only to the encumbered property; or providing activities or infrastructure to support quality of life, including cultural, educational, charitable, recreational, environmental, and conservation activities and infrastructure, that directly benefit the encumbered property; or

- a fee payable to or imposed by the Veterans Land Board for consent to an assumption or transfer of a contract of sale and purchase.

Authorizes the benefit described above to collaterally benefit a community composed of property that is adjacent to the encumbered property, or property a boundary of which is not more than 1,000 yards from a boundary of the encumbered property.

Authorizes an organization to provide a direct benefit if the organization provides to the general public activities or infrastructure described by the bill; the provision of activities or infrastructure substantially benefits the encumbered property; and the governing body of the organization is controlled by owners of the encumbered property, and approves payments for activities or infrastructure at least annually.

Authorizes an organization to provide activities and infrastructure to another organization exempt from federal taxation under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986, at no charge for *de minimis* usage without violating the requirements of this section.

Requires a person who receives a private transfer fee under a private transfer fee obligation created before the effective date of Subchapter G on or before January 31, 2012, to file for record a "Notice of Private Transfer Fee Obligation" in the real property records of each county in which the property is located.

Requires multiple payees of a single private transfer fee under a private transfer fee obligation to designate one payee as the payee of record for the fee.

Sets forth requirements for a notice of private transfer fee obligation.

Provides that if a person required to file a notice fails to comply with provisions of the bill, payment of the private transfer fee is prohibited from being a requirement for the conveyance of an interest in the property to a purchaser; the property is not subject to further obligation under the private transfer fee obligation; and the private transfer fee obligation is void.

Requires the payee of record on the date a private transfer fee is paid under a private transfer fee obligation to accept the payment on or before the 30th day after the date the payment is tendered to the payee.

Provides that if the payee of record fails to comply with the provision above, the payment is required to be returned to the remitter; payment of the private transfer fee is prohibited from being a requirement for the conveyance of an interest in the property to a purchaser; and the property is not subject to further obligation under the private transfer fee obligation.

Requires a seller of real property that may be subject to a private transfer fee obligation to provide written notice to a potential purchaser stating that the obligation may be governed by Subchapter G.

Provides that a provision that purports to waive a purchaser's rights under Subchapter G is void.

Authorizes the attorney general to institute an action for injunctive or declaratory relief to restrain a violation of Subchapter G and an action for civil penalties against a payee for a violation of Subchapter G.

Requires the comptroller to deposit to the credit of the general revenue fund all money collected under provisions of this bill.

Repeals Section 5.017 (Fee for Future Conveyance of Residential Real Property and Related Lien Prohibited), Property Code.

Property Owners' Association Regulation of Solar Energy Devices—H.B. 362

by Representative Solomons et al.—Senate Sponsor: Senator West

An owner of a lot in a property owners' association is hampered in developing that property by restrictive covenants in a dedicatory instrument of the association, including restrictions on the owner's use of solar energy devices and roofing materials. This bill:

Defines "solar energy device."

Prohibits a property owners' association from including or enforcing in a dedicatory instrument a ban on the installation of a solar energy device and roofing material that meets certain criteria.

Mortgage Payoff Statements—H.B. 558

by Representative Deshotel—Senate Sponsor: Senator Carona

Thousands of mortgage loans are refinanced or paid in full every year. To be reasonably assured that the holder of the loan will release the lien upon receipt of payment for the balance, it is important for the borrower, the title company, and the new lender to obtain a reliable payoff statement from the holder of the loan. Upon the request of a title company, a lender issues a mortgage payoff statement with the outstanding balance of a borrower's mortgage. Lenders sometimes refuse to provide a written payoff statement and instead issue a letter with exculpatory language that allows the lenders to recant the payoff or refuse to issue the release of the lien until they are paid additional funds. This bill:

Requires the Finance Commission of Texas (finance commission) to adopt rules governing requests by title insurance companies for payoff information from mortgage services related to home loans and the provision of that information, including rules prescribing a standard payoff statement form that must be used by mortgage services to provide those payoff statements.

Requires the finance commission, in adopting rules, to require a mortgage servicer who receives a request for a payoff statement with respect to a home loan from a title insurance company to deliver the requested payoff statement on the prescribed form within a time specified by finance commission rule, which must allow the mortgage servicer at least seven business days after the date the request is received to deliver the payoff statement.

Requires that the standard payoff statement form prescribed by the finance commission require that a completed form state the proposed closing date for the sale and conveyance of the real property securing the home loan or for any other transaction that would involve the payoff of the home loan, as specified by the title insurance company's request; and provide a payoff amount that is valid through that date.

Prohibits the mortgage servicer or mortgagee, except as provided, if the mortgage servicer provides a completed payoff statement form that meets the requirements and rules in response to a request for a payoff statement, from demanding that a mortgagor pay an amount in excess of the payoff amount specified in the payoff statement.

Authorizes a mortgage servicer or mortgagee, if the mortgage servicer or mortgagee discovers that a payoff statement is incorrect, to correct and deliver the statement on or before the second business day before the specified proposed closing date.

Requires that the corrected payoff statement be delivered to the requestor by certified mail with return receipt requested; and electronic means, if the requestor provides the mortgage servicer with a means to deliver the corrected statement electronically.

Provides that if a mortgage servicer submits an incorrect payoff statement to a title insurance company that results in the mortgage servicer requesting an amount that is less than the correct payoff amount, the mortgage servicer or mortgagee does not deliver a corrected payoff statement, and the mortgage servicer receives payment in the amount specified in the payoff statement, the difference between the amount included in the payoff statement and the correct payoff amount:

- remains a liability of the former mortgagor owed to the mortgagee; and
- if the payoff statement is in connection with:
 - the sale of the real property, the deed of trust or other contract lien securing an interest in the property is released; within a reasonable time after receipt of payment by the mortgagee or mortgage servicer, the mortgagee or mortgage servicer, as applicable, shall deliver to the title company a release of the deed of trust or other contract lien securing an interest in the property; and any proceeds disbursed at closing to or for the benefit of the mortgagor, excluding closing costs related to the transaction, are subject to a constructive trust for the benefit of the mortgagee to the extent of the underpayment; or
 - a refinance by the mortgagor of the existing home loan, the lien securing the existing home loan becomes subordinate to the lien securing the new home loan; and any proceeds disbursed at closing to or for the benefit of the mortgagor, excluding closing costs related to the transaction, are subject to a constructive trust for the benefit of the mortgagee to the extent of the underpayment.

Extension of Deed Restrictions in Certain Residential Subdivisions—H.B. 1071

by Representative Sarah Davis—Senate Sponsor: Senator Ellis

Many real estate subdivisions in Texas have deed restrictions that place limitations on the use of the property. Deed restrictions are usually initiated by the developers who determine what the land will be used for and divide the land into plots to build homes, office buildings, or retail buildings. These deed restrictions often come with the property and are difficult for subsequent owners to change or remove. The Property Code is being amended to establish new provisions in statute relating to the extension of deed restrictions in certain residential real estate subdivisions. This bill:

Authorizes deed restrictions to be extended by the written consent of the owners of a majority of the lots in a subdivision that is located wholly or partly in a municipality with a population of more than two million located in a county with a population of 3.3 million or more, without respect to the number of lots owned by a particular owner in a residential real estate subdivision.

Tenant's Failure to Pay Rent During Appeal of an Eviction—H.B. 1111

by Representatives Hartnett and Sheffield—Senate Sponsor: Senator Harris

A tenant who is appealing a judgment in an eviction case may file a pauper's affidavit if the tenant is unable to pay the costs of the appeal. When a tenant files a pauper's affidavit, the tenant has a right to remain in possession of the property pending the outcome by paying a deposit into the court registry. If a tenant fails to pay the deposit within a

certain period, the landlord must then file a motion stating the deposit was not paid and request a writ of possession. This bill:

Authorizes a justice court to issue a writ of possession in favor of the landlord without a hearing if the tenant fails to pay into the court registry the initial rent deposit stated in the judgment.

Sets forth the information the court must provide to a tenant if the tenant timely files a pauper's affidavit to appeal an eviction for nonpayment of rent.

Sets forth the procedure for issuing a writ of possession.

Sets forth when the justice court must forward the transcript and original papers in an appeal of an eviction case to the county court

Smoke Alarms and Fire Extinguishers in Residential Rental Units—H.B. 1168

by Representatives Doug Miller and Sheffield—Senate Sponsor: Senator Van de Putte

The standard at the time Texas first required smoke alarms to be installed in residential rental properties was to place the alarms in the vicinity, but outside, of a bedroom. Since that time, standards in the international model codes used by cities have changed to require smoke alarms to be placed in bedrooms. Additionally, inspection requirements for single-use-non-refillable residential fire extinguishers, or 1A10BC fire extinguishers, are unclear. While annual inspections are required for certain larger pressure-tested refillable fire extinguishers, some cities also require 1A10BC extinguishers to be inspected. Since such residential fire extinguishers can easily be visually inspected, it is unnecessary to require a 1A10BC fire extinguisher to be inspected by a third party. This bill:

Replaces the term "smoke detector" with "smoke alarm."

Defines "bedroom," "dwelling," and "smoke alarm."

Establishes that the duties of a landlord and the remedies of a tenant are in lieu of common law, other statutory law, and local ordinances regarding a residential landlord's duty to install, inspect, or repair a fire extinguisher or smoke alarm in a dwelling unit.

Provides that if a smoke alarm powered by battery has been installed in a dwelling unit built before September 1, 1987, a local ordinance may not require that a smoke alarm powered by alternating current be installed in the unit unless the interior of the unit is repaired, remodeled, or rebuilt at a projected cost of more than \$5,000, rather than \$2,500, or an addition occurs to the unit at a projected cost of more than \$5,000, rather than \$2,500.

Establishes that these provisions do not apply to a nursing or convalescent home licensed by the Department of State Health Services and certified to meet the Life Safety Code under federal law and regulations.

Provides that a smoke alarm may be powered by battery, alternating current, or other power source as required by local ordinance.

Requires a landlord to install at least one smoke alarm in each separate bedroom in a dwelling unit and if multiple bedrooms are served by the same corridor, to install at least one smoke alarm in the corridor and if the dwelling unit has multiple levels, to install at least one smoke alarm on each level.

Provides that a smoke alarm installed before September 1, 2011, may be powered by battery and is not required to be interconnected with other smoke alarms.

Requires the landlord or the landlord's agent, if a landlord has installed a 1A10BC residential fire extinguisher as defined by the National Fire Protection Association or other non-rechargeable fire extinguisher, to inspect the fire extinguisher at the beginning of a tenant's possession and within a reasonable time after receiving a written request by a tenant and establishes what must be included in the inspection.

Establishes that a fire extinguisher that satisfies the inspection requirements of at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests an inspection in writing.

Requires the landlord to repair or replace a fire extinguisher at the landlord's expense if on inspection, the fire extinguisher is found not to be functioning or not to have the correct pressure indicated on the gauge or pressure indicator as recommended by the manufacturer of the fire extinguisher or a tenant has notified the landlord that the tenant has used the fire extinguisher for a legitimate purpose.

Provides that if the tenant or the tenant's invited guest removes, misuses, damages, or otherwise disables a fire extinguisher, the landlord is not required to repair or replace the fire extinguisher at the landlord's expense and the landlord is required to repair or replace the fire extinguisher within a reasonable time if the tenant pays in advance the reasonable repair or replacement cost, including labor, materials, taxes, and overhead.

Property Owners' Association Assessments—H.B. 1228

by Representative Dutton—Senate Sponsor: Senator West

Currently, a property owners' association may foreclose on real property for the property owner's failure to pay association assessments. In many instances, the foreclosed property is encumbered with a first lien that is not disposed of when the foreclosure sale occurs because there is no requirement to notify the lienholder of the foreclosure or the sale. This bill:

Requires a property owners' association composed of more than 14 lots to adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties.

Sets forth additional requirements related to a notice by a property owners' association, prerequisites for foreclosure, and for providing the lienholder with an opportunity to cure a delinquency before a foreclosure sale.

Regulation by Property Owners' Association of Certain Religious Displays—H.B. 1278

by Representative Coleman et al.—Senate Sponsor: Senator Seliger

Some property owners' associations prohibit homeowners and residents from posting religious items on the doors of their dwellings. An owner or resident who refuses to remove such an item risks being fined by the association. This bill:

Prohibits a property owners' association from enforcing or adopting a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items that are expected to be displayed by a tenet of the owner's or resident's religion.

Provides that this bill does not prohibit the enforcement or adoption of a covenant that prohibits the display or affixing of a religious item on the entry to the owner's or resident's dwelling that threatens the public health or safety; violates a law; contains language, graphics, or any display that is patently offensive to a passerby; is in an improper location; or exceeds restrictions on the size of the display.

Provides that the bill's provisions do not authorize an owner or resident to use a material or color for an entry door or door frame of the owner's or resident's dwelling or to make an alteration to the entry door or door frame that is not authorized by the restrictive covenants governing the dwelling.

Authorizes a property owners' association to remove an item displayed in violation of a restrictive covenant permitted by the bill's provisions.

Tenant's Right to Copy of a Lease Agreement—H.B. 1429 [Vetoed]

by Representative Deshotel—Senate Sponsor: Senator Carona

Under current law, there is no clear requirement that a landlord provide a tenant with a copy of the tenant's lease, although a licensed real estate broker must provide a signer of real estate documents with a copy of those documents. Currently, the primary protection a tenant has from retaliation by a landlord is the exercise of a right granted to the tenant in the lease or under local, state, or federal law; when a tenant gives a notice for repair or remedy; or when the tenant makes a complaint to a governmental entity. Tenant organizations provide additional protection to tenants, and in several states tenant organizing is a protected category in retaliation statutes. This bill:

Requires a landlord to provide at least one copy of a lease to at least one tenant who is a party to the lease, no later than the third business day after the date the lease is signed by each party to the lease.

Prohibits a landlord from retaliating against a tenant because the tenant establishes, attempts to establish, or participates in a tenant organization.

Regulation of Manufactured Housing—H.B. 1510

by Representative Hamilton—Senate Sponsor: Senator Carona

Chapter 1201 (Manufactured Housing), Occupations Code, pertains to manufactured housing. Texas laws regulating manufactured housing date back more than 30 years. The manufactured housing industry has experienced significant change and there is a need to clarify current statute in order to provide more consumer protections and to increase the efficiency and productivity of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA). This bill:

Requires an owner, not later than the 60th day after the date TDHCA issues a certified copy of the statement of ownership and location to the owner, to file the certified copy in the real property records of the county in which the home is located; and notify TDHCA and the chief appraiser of the applicable appraisal district, rather than tax assessor-collector, that the certified copy has been filed.

Provides that a real property election for a manufactured home is not considered to be perfected until a certified copy of the statement of ownership and location has been filed and TDHCA and the chief appraiser of the applicable appraisal district have been notified of the filing.

Provides that after a real property election is perfected the home is considered to be real property for all purposes and no additional issuance of a statement of ownership and location is required with respect to the manufactured home, unless the home is moved from the location specified on the statement of ownership and location; the real property election is changed; or the use of the property is changed.

Provides that, except with respect to any change in use, servicing of a loan on a manufactured home, release of a lien on a manufactured home by an authorized lienholder, or change in ownership of a lien on a manufactured home, but subject to Section 1201.2075 (Conversion From Personal Property to Real Property), if TDHCA has issued a

statement of ownership and location for a manufactured home, TDHCA is authorized to issue a subsequent statement of ownership and location for the home only if all parties reflected in TDHCA's records as having an interest in the manufactured home give their written consent or release their interest or TDHCA has followed the procedures to document ownership and lien status.

Prohibits TDHCA, once TDHCA issues a statement of ownership and location, from altering the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity or to release a lien if an authorized lienholder files with TDHCA a request for that release, of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned if the home has been continuously unoccupied for at least four months; and any indebtedness secured by the home or related to a lease agreement between the owner of the real property and the owner of the home is considered delinquent.

Authorizes a lien perfected with TDHCA, notwithstanding any other law, to be released only by filing a request for the release with TDHCA on the form provided by TDHCA or by following TDHCA procedures for electronic lien release on TDHCA's Internet website.

Provides that a tax lien on a manufactured home not held in a retailer's inventory is perfected only by filing with TDHCA the notice of the tax lien on a form provided by TDHCA in accordance with the requirements of Chapter 32 (Tax Liens and Personal Liability), Tax Code.

Authorizes a tax lien perfected with TDHCA to be released only by filing with TDHCA a tax certificate or tax paid receipt in accordance with Section 32.015 (Tax Lien on Manufactured Home), Tax Code, by filing a request for the release with TDHCA on the form provided by TDHCA, or by following TDHCA procedures for electronic tax lien release on TDHCA's Internet website.

Requires TDHCA to make available in electronic format or in hard-copy format on request, to each chief appraiser of an appraisal district in this state, for each manufactured home reported as having been installed during the preceding month in the county for which the district was established and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership and location during the preceding month, a monthly report that lists certain information.

Repeals Section 1201.2055(f) (relating to records of real property elections), Occupations Code and Section 1201.206(d) (relating to application for issuance of a new statement of ownership), Occupations Code.

Information Provided by Property Owners' Association—H.B. 1821

by Representative Rodney Anderson—Senate Sponsor: Senators West and Uresti

Currently, a purchaser under contract to purchase residential property subject to membership in a property owners' association has limited options for obtaining a resale certificate, requiring involvement of third parties, which restricts the ability of the purchaser to gain information needed to complete the transaction. This bill:

Sets forth the form of the written notice a seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state is required to give to the purchaser of the property.

Redefines "dedicatory instrument" in Section 202.001(1), Property Code.

Sets forth requirements for property owners' associations relating to the form, delivery, and fees of a resale certificate; maintenance of public records; public information requests, online subdivision information, and alternative payment schedule guidelines.

Tenant's Remedies for a Revocation of a Certificate of Occupancy—H.B. 1862

by Representative Anchia—Senate Sponsor: Senator West

Under current law, if a municipality or county revokes a certificate of occupancy due to a determination of substandard housing, the tenants have almost no means to recoup losses incurred as a result of the revocation. This bill:

Provides that if a municipality or a county revokes a certificate of occupancy for a leased premises because of the landlord's failure to maintain the premises, the landlord is liable to a tenant who is not in default under the lease for the full amount of the tenant's security deposit; the pro rata portion of any rental payment the tenant has paid in advance; the tenant's actual damages, including any moving costs, utility connection fees, storage fees, and lost wages; and court costs and attorney's fees arising from any related litigation against the landlord.

Meetings, Elections, and Records of Certain Property Owners' Associations—H.B. 2761

by Representatives Garza and Charlie Howard—Senate Sponsors: Senators West and Uresti

A property owners' association may be classified as a condominium association, a cooperative association, or a homeowners' association. In Texas, these entities are regulated under the Property Code; however, existing statutory provisions regarding these associations do not provide adequate protections for homeowners. This bill:

Requires a property owners' association to make the books and records of the association, including financial records, open to and reasonably available for examination by an owner, or a person designated by the owner as the owner's agent, attorney, or certified public accountant.

Sets forth requirements relating to property owners' association records.

Requires that regular and special board meetings be open to owners, subject to the right of the governing board of a property owners' association to adjourn a board meeting and reconvene in closed executive session to consider certain actions.

Sets forth requirements relating to the location, recording, and notice of a property owners' association board meeting. Requires a board, notwithstanding any provision in a dedicatory instrument, to call an annual meeting of the members of the property owners' association.

Sets forth requirements relating to the notice of an election or an association vote.

Sets forth procedures for owners to demand the calling of a board meeting or form an election committee under certain conditions. Authorizes an election committee to call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members.

Property Owners' Association Dedicatory Instruments Regarding Flags—H.B. 2779

by Representative Bohac et al.—Senate Sponsor: Senator Patrick et al.

Disputes between property owners' associations and their members regarding whether a property owner is allowed to display a United States flag or certain other flags at the owner's residence indicate the need for state laws to provide clear guidance on the matter. This bill:

Prohibits a property owners' association from adopting or enforcing a dedicatory instrument provision that prohibits or otherwise restricts a property owner from displaying specified types of flags, with certain exceptions.

Powers and Duties of Certain Master Mixed-Use Property Owners' Associations—H.B. 2869

by Representative Harper-Brown—Senate Sponsor: Senator Shapiro

Las Colinas is a unique master mixed-use property in that it includes commercial properties such as hotel and retail property. It also contains at least 10 incorporated residential or commercial property owners' associations, and a mix of single-family and multi-family properties. Traditional homeowners' association laws do not appropriately address the issues facing a master mixed-use property such as Las Colinas. This bill:

Establishes a new section of code that outlines board powers, proxy voting, and covenant enforcement for the Las Colinas master-mixed use property.

Voting Practices and Elections of Property Owners' Associations—S.B. 472

by Senator West—House Sponsor: Representative Giddings

Among the functions of a property owners' association is the maintenance of common areas in residential neighborhoods and the protection of a homeowner's investments in residential property by enforcing certain aesthetic guidelines. In recent years, however, reports indicate that many homeowners have become dissatisfied with the operation of their associations. In particular, many homeowners feel disenfranchised with respect to board elections because of provisions in dedicatory instruments that prohibit homeowners from voting for certain reasons and disallow homeowners from running for positions on the association's board. Furthermore, current statutory provisions have not kept pace with technological advances relating to electronic voting, which may contribute to the reported dissatisfaction with the conduct of association elections. This bill:

Provides that all homeowners have the right to vote and participate in the management of their property owners' associations.

Authorizes the use of alternative voting practices, including proxy voting and the use of electronic ballots, in a property owners' association election.

Disclosure of Hazardous Drains by a Seller of Residential Real Property—S.B. 710

by Senator Van de Putte—House Sponsor: Representative Menendez

Single blockable drains in swimming pools, spas, and hot tubs can present the risk of entrapment and some drains have such a powerful suction that they entrap hair or body parts and cause prolonged submersion under water. Federal law requires the installation of anti-entrapment and other safety devices in all public pools. This bill:

Requires that a seller's disclosure notice regarding whether a residential swimming pool, hot tub, or spa contains a single blockable main drain be executed and, at a minimum, read substantially similar to certain language as set forth in this bill.

Assignment of Rents and Security Interests in Real Property—S.B. 889

by Senator Carona—House Sponsor: Representative Sarah Davis

It is standard practice that in a commercial lease transaction, a lender will obtain a security interest in both the property being purchased and the rents and other proceeds that the property may generate. A Texas Supreme Court case complicated this process by holding that a lender's security interest in rents does not become operative until enforced by the lender. Currently, Texas statute does not address the perfection of a lien on rents. This bill:

Adds Chapter 64 (Assignment of Rents to Lienholder), Property Code.

Sets forth provisions for the manner of providing notice under Chapter 64.

Provides that an enforceable security instrument creates an assignment of rents arising from real property securing an obligation under the security instrument, unless the security instrument provides otherwise or the security instrument is governed by certain provisions relating to an extension of credit, a reverse mortgage, or the conversion and refinance of a personal property lien under the Texas Constitution.

Provides that an assignment of rents creates a presently effective security interest in all accrued and unaccrued rents arising from the real property described in the document creating the assignment, regardless of whether the document is in the form of an absolute assignment, an absolute assignment conditioned on default or another event, an assignment as additional security, or any other form.

Provides that an assignment of rents does not reduce the secured obligation except to the extent the assignee collects rents and applies, or is obligated to apply, the collected rents to payment of the secured obligation.

Authorizes a document creating an assignment of rents to be recorded in the county in which any part of the real property is located.

Provides that, on recordation of a document creating an assignment of rents, the security interest in the rents is perfected and provides that sections of this bill prevail over a conflicting provision in the document creating the assignment of rents or a law of this state other than Chapter 64 that prohibits or defers enforcement of the security interest until the occurrence of a subsequent event, such as a subsequent default of the assignor, the assignee's obtaining possession of the real property, or the appointment of a receiver.

Provides that a perfected security interest in rents has priority over the rights of a person who, after the security interest is perfected, acquires a lien on or other security interest in the rents or the real property from which the rents arise; or an interest in the rents or the real property from which the rents arise.

Provides that an assignee of a perfected security interest in rents has the same priority over the rights with respect to future advances as the assignee has with respect to the assignee's security interest in the real property from which the rents arise.

Authorizes an assignee to enforce an assignment of rents using one or more of the methods provided by this bill or another method sufficient to enforce the assignment under a law of this state.

Entitles the assignee, on and after the date on which an assignee begins to enforce an assignment of rents, to collect all rents that accrued before but remain unpaid on that date and accrue on or after that date.

Authorizes the assignee, after default, or as otherwise agreed by the assignor, to provide the assignor a notice demanding that the assignor pay the assignee the proceeds of any rents that the assignee is entitled to collect.

Authorizes the assignee, after default, or as otherwise agreed by the assignor, to provide to a tenant of real property that is subject to an assignment of rents a notice demanding that the tenant pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue.

Provides that, subject to sections of this bill and any other claim or defense that a tenant has under a law of this state, after a tenant receives a notice:

- the tenant is obligated to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue, unless the tenant has previously received a notice from another assignee of rents provided by that assignee and the other assignee has not canceled that notice;
- except as otherwise provided by a document signed by the tenant, the tenant is not obligated to pay to an assignee rent that was prepaid to the assignor before the tenant received the notice;
- unless the tenant occupies the premises as the tenant's primary residence, the tenant is not discharged from the obligation to pay rents to the assignee if the tenant pays rents to the assignor;
- the tenant's payment to the assignee of rents then due satisfies the tenant's obligation under the tenant's agreement with the assignor to the extent of the payment made; and
- the tenant's obligation to pay rents to the assignee continues until the earliest date on which the tenant receives a court order directing the tenant to pay the rents in a different manner; signed notice that a perfected security instrument that has priority over the assignee's security interest has been foreclosed; or a signed document from the assignee canceling the assignee's notice.

Provides that, except as otherwise provided by a document signed by the tenant, a tenant who has received a notice is not in default for nonpayment of rents that accrue during the 30 days after the date the tenant receives the notice until the earlier of the 10th day after the date the next regularly scheduled rental payment would be due; or the 30th day after the date the tenant receives the notice.

Provides that the enforcement of an assignment of rents, the application of proceeds by the assignee after enforcement, the payment of expenses, or an action under this certain provisions of this bill does not make the assignee a mortgagee in possession of the real property from which the rents arise; make the assignee an agent of the assignor; constitute an election of remedies that precludes a later action to enforce the secured obligation; make the secured obligation unenforceable; limit any right available to the assignee with respect to the secured obligation; or bar a deficiency judgment under any law of this state governing or relating to deficiency judgments following the enforcement of any encumbrance, lien, or security interest.

Requires an assignee who collects rents under Chapter 64 or collects on a judgment in an action, unless otherwise agreed by the assignor, to apply the sums collected a certain order.

Provides that, unless otherwise agreed by the assignee, an assignee that collects rents following enforcement is not obligated to apply the collected rents to the payment of expenses of protecting or maintaining the real property subject to an assignment of rents.

Provides that, unless otherwise agreed by a tenant, the right of the assignee to collect rents from the tenant is subject to the terms of any agreement between the assignor and tenant and any claim or defense of the tenant arising from the assignor's nonperformance of that agreement.

Requires an assignor, if the assignor collects rents that the assignee is entitled to collect under Chapter 64, to turn over the proceeds to the assignee not later than the 30th day after the date the assignor receives notice from the assignee or within another period prescribed by a security instrument or other document signed by the assignor and approved by the assignee, less any amount representing payment of expenses authorized by a security instrument or other document signed by the assignee.

Authorizes the assignee, in addition to any other remedy available to the assignee under a law of this state, if an assignor does not turn over proceeds to the assignee as required, to recover certain costs from the assignor in a civil action.

Provides that an assignee's security interest in rents attaches to identifiable proceeds and that, if an assignee's security interest in rents is perfected, the assignee's security interest in identifiable cash proceeds is perfected.

Provides that, except as provided by provisions of this bill, the provisions of Chapter 9 (Secured Transactions), Business & Commerce Code, or the comparable UCC provisions of another applicable jurisdiction, determine whether an assignee's security interest in proceeds is perfected; the effect of perfection or nonperfection; the priority of an interest in proceeds; and the law governing perfection, the effect of perfection or nonperfection, and the priority of an interest in proceeds.

Provides that Chapter 64 does not preclude subordination by agreement by a person entitled to priority.

Allocation of Loans Made Under the Owner-Builder Loan Program—S.B. 992

by Senator Lucio—House Sponsor: Representative Lucio III

The Texas Bootstrap Loan Program was established in 1999 to promote and enhance homeownership opportunities for low income families. Since its establishment, two-thirds of the program's funds were dedicated to regions that were assisted by the Economically Distressed Areas Program (EDAP), with the intention of targeting a portion of the funds to low-income Texans in the most distressed areas of the state, such as those areas assisted by EDAP, so as to address their affordable housing needs. A 2008 internal agency interpretation of the statute limited the use of the two-thirds of the funds to counties that have adopted Model Subdivision Rule, limiting participation of some low-income persons in the program. This bill:

Requires that at least two-thirds of the dollar amount of loans made under the owner-builder loan program in each fiscal year be made to borrowers whose property is in a census tract that has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, rather than to such a borrower whose property is located in a county that is eligible to receive financial assistance under Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17 (Public Funding), Water Code.

Licensing and Regulation of Residential Mortgage Lending—S.B. 1124

by Senator Carona—House Sponsors: Representatives Truitt and Solomons

The Texas Secure and Fair Enforcement for Mortgage Licensing Act (Texas SAFE Act) was passed in 2009, in response to federal legislation establishing the Nationwide Mortgage Licensing System and Registry, a system that issues a unique identifying number permanently identifying a residential mortgage loan originator. However, a number of provisions within the Texas SAFE Act need to be reconciled due to the differences in definitions and powers that existed in the Finance Code, prior to the passage of the Texas SAFE Act. This bill:

Amends the heading to Chapter 156 (Mortgage Brokers), Finance Code, to read: Residential Mortgage Loan Companies and Residential Mortgage Loan Originators.

Changes references to a mortgage broker or loan officer to a residential mortgage loan originator.

Authorizes the finance commission to adopt residential mortgage loan origination rules.

Requires the savings and mortgage lending commissioner (commissioner) to establish, administer, and maintain one recovery fund for the purposes of Chapters 156 and 157 (Registration of Mortgage Bankers), Finance Code.

Provides that the commissioner's authority includes the authority to set fee amounts under Chapters 156 and 157 for deposit in the recovery fund; and enforce disciplinary action as provided by Chapters 156 and 157 for a person's failure to comply with the applicable provisions of those chapters relating to the recovery fund and with applicable rules adopted under those chapters.

Requires the mortgage industry advisory committee (advisory committee) to include six individuals licensed by the Texas Department of Banking (TDB) as residential mortgage loan originators, two of whom must hold an active real estate broker or salesperson license issued under Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code.

Prohibits a person from acting in the capacity of, engaging in the business of, or advertising or holding that person out as engaging in or conducting the business of a residential mortgage loan company in this state unless the person holds an active residential mortgage loan company license, is registered under Section 156.214 (Registered Financial Services Company), or is exempt under Section 156.202 (Exemptions).

Prohibits an individual from acting or attempting to act as a residential mortgage loan originator unless the individual at the time is licensed and sponsored by a licensed residential mortgage loan company and is acting for the residential mortgage loan company, or is exempt.

Prohibits an exclusive agent of a registered financial services company, unless exempt under statute, from acting or attempting to act as a residential mortgage loan originator unless the exclusive agent at the time is licensed and sponsored by a registered financial services company and is acting for the company.

Requires a residential mortgage loan originator to be sponsored by at least one residential mortgage loan company.

Provides that each residential mortgage loan company and the company's qualifying individual licensed is responsible to the commissioner and members of the public for any act or conduct performed by the residential mortgage loan originator sponsored by or acting for the residential mortgage loan company in connection with the origination of a residential mortgage loan; or a transaction that is related to the origination of a residential mortgage loan in which the qualifying individual knew or should have known of the transaction.

Provides that certain individuals or entities, and employees of those entities when acting for the benefit of those entities are exempt from Chapter 156, including:

- a registered mortgage loan originator when acting for a depository institution, a subsidiary of a depository institution that is owned and controlled by the depository institution, and regulated by a federal banking agency; or an institution regulated by the Farm Credit Administration;
- an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;
- a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney takes a residential

- mortgage loan application and offers or negotiates the terms of a residential mortgage loan;
- an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence;
- a nonprofit organization providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan;
- a mortgage banker registered under Chapter 157;
- any owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property for all or part of the purchase price of the residential real estate against which the mortgage is secured;
- an entity that is a depository institution, a subsidiary of a depository institution that is owned and controlled by the depository institution, and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and
- an individual who is exempt as provided by statute.

Provides that a person is not required to obtain a license or registration under Chapter 157 to originate a loan subject to Chapter 342 (Consumer Loans), Finance Code, or a loan governed by Section 50(a)(6) (relating to an extension of credit), Article XVI (General Provisions), Texas Constitution, under certain conditions.

Authorizes the finance commission to grant an exemption from the residential mortgage loan originator licensing requirements of Chapter 157 to a municipality, county, community development corporation, or public or private grant administrator to the extent the entity is administering the Texas HOME Investment Partnerships program if the commission determines that granting the exemption is not inconsistent with the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Requires that an application for a residential mortgage loan company license, a residential mortgage loan originator license, and an application for a financial services company registration be in writing, under oath, and on the form prescribed by the commissioner.

Sets forth provisions relating to the qualifications and requirements for licenses for:

- mortgage company and residential mortgage loan originators;
- credit union subsidiary organization and residential mortgage loan originators;
- auxiliary mortgage loan activity company and residential mortgage loan originators;
- independent contractor loan processor or underwriter company and individual loan processors or underwriters; and
- financial services company and exclusive agents.

Requires that financial requirements for holding a residential mortgage loan originator license be met through participation in the recovery fund.

Provides that an exclusive agent of a financial services company meets the agent's financial requirements for holding a residential mortgage loan originator license by obtaining surety bond coverage in an amount equal to \$1 million.

Requires the commissioner, on receipt of an application for a residential mortgage loan originator license, to, at a minimum, conduct a criminal background and credit history check of the applicant.

Requires the commissioner to issue a license to an applicant for a residential mortgage loan company license if the commissioner finds that the applicant meets all requirements and conditions for the license.

Provides that a residential mortgage loan company license is valid through December 31 of the year of issuance and may be renewed on or before its expiration date if the residential mortgage loan company pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375; and has not shown a pattern or practice of abusive mortgage activity and has no civil judgments or liens that, in the commissioner's opinion, directly impact the ability of the residential mortgage loan company to conduct business while safeguarding and protecting the public interest.

Provides that a residential mortgage loan originator license is valid through December 31 of the year of issuance and may be renewed on or before its expiration date if the residential mortgage loan originator pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375 and a recovery fund fee; continues to meet the minimum requirements for license issuance; and provides the commissioner with satisfactory evidence that the residential mortgage loan originator has attended, during the term of the current license, continuing education courses in accordance with the applicable requirements.

Provides that a license issued to a registered financial services company's exclusive agent is valid through December 31 of the year of issuance and is authorized to be renewed on or before the expiration date if the exclusive agent complies with the requirements.

Authorizes a person who is otherwise eligible to renew a license, but has not done so before January 1, to renew the license before March 1 by paying the commissioner a reinstatement fee in an amount equal to 150 percent of the required renewal fee.

Authorizes the commissioner to issue a conditional license and requires the finance commission by rule to adopt reasonable terms and conditions for a conditional license.

Requires a residential mortgage loan company, if the company maintains an office separate and distinct from the company's main office, whether located in this state or not, that conducts mortgage business with consumers of this state or regarding residential real estate in this state, to apply for, pay a fee of \$50 for, and obtain an additional license to be known as a branch office license for each additional office to be maintained by the company.

Requires each licensed residential mortgage loan company or licensed residential mortgage loan originator, as required by the commissioner, to file a mortgage call report with the commissioner or the commissioner's authorized designee on a form prescribed by the commissioner or authorized designee.

Changes references to a mortgage broker or loan officer to a residential mortgage loan company.

Prohibits the amount of the administrative penalty on a person licensed under Chapter 156 or Chapter 157 who violates Chapter 156 or Chapter 157 from exceeding \$25,000 for each violation.

Authorizes the commissioner, in the commissioner's discretion, to rescind or vacate any previously issued revocation order.

Requires the commissioner to establish, administer, and maintain a recovery fund and sets forth provisions relating to the funding, statute of limitations, procedure for recovery, recovery limits, revocation or suspension of license for payment from recovery fund, and subrogation.

Requires the recovery fund to be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a residential mortgage loan originator, under Chapter 156 or under Chapter 157 when the act was committed.

Requires a mortgage banker, to register under Chapter 157, to enroll with Nationwide Mortgage Licensing System and Registry (NMLSR); be in good standing with the secretary of state; have a valid federal employer identification number; meet the qualification requirements for a mortgage banker; and provide to the commissioner a list of any offices that are separate and distinct from the primary office identified on the mortgage banker registration and that conduct residential mortgage loan business relating to this state, regardless of whether the offices are located in this state.

Provides that the registration of a mortgage banker is valid on approval of the commissioner and may be denied if the commissioner determines the mortgage banker does not meet the certain requirements.

Provides that the registration of a mortgage banker expires on December 31 of the year in which the registration is approved, and requires that it be renewed annually.

Authorizes a mortgage banker who is otherwise eligible to renew a registration, but has not done so before January 1, to renew the registration before March 1 by paying the commissioner a reinstatement fee in an amount not to exceed \$500.

Prohibits a mortgage banker whose registration has not been renewed before March 1 from renewing the registration.

Requires a mortgage banker that is a residential mortgage loan originator to include a notice to a residential mortgage loan applicant with an application for a residential mortgage loan.

Requires the finance commission by rule to adopt a standard disclosure form to be used by the mortgage banker and requires that the form include the name, address, and toll-free telephone number for TDB; contain information on how to file a complaint or recovery fund claim; and prescribe a method for proof of delivery to the consumer.

Provides that a mortgage banker employee who is not a residential mortgage loan originator is not required to enroll with NMLSR or be licensed under Chapter 157.

Requires each mortgage banker to file a mortgage call report with the commissioner or the commissioner's authorized designee on a form prescribed by the commissioner or authorized designee and requires that the report be filed as frequently as required by NMLSR.

Authorizes the commissioner to revoke or suspend a license on proof that the commissioner has made a payment from the recovery fund of any amount toward satisfaction of a claim against a residential mortgage loan originator.

Authorizes the commissioner to seek to collect from a residential mortgage loan originator the amount paid from the recovery fund on behalf of the residential mortgage loan originator and any costs associated with investigating and processing the claim against the recovery fund or with collection of reimbursement for payments from the recovery fund, plus interest at the current legal rate until the amount has been repaid in full.

Requires that any amount, including interest, recovered by the commissioner be deposited to the credit of the recovery fund.

Provides that certain persons are exempt from Chapter 180 (Residential Mortgage Loan Originators), Finance Code, including an owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property for all or part of the purchase price of the residential real estate against which the mortgage is secured, and an owner of a dwelling who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property for all or part of the purchase price of the dwelling against which the mortgage or security interest is secured.

Provides that an individual is exempt from Chapter 180, Finance Code, if the individual in any 12-consecutive-month period originates five or fewer closed residential mortgage loans exclusively for a single federally chartered depository institution and the loans are closed within that period; is contractually prohibited from soliciting, processing, negotiating, or placing a residential mortgage loan with a person other than the depository institution; and is sponsored by a life insurance company, or an affiliate of the company, authorized to engage in business in this state.

Authorizes the finance commission to grant an exemption from the licensing requirements of Chapter 156 to a municipality, county, community development corporation, or public or private grant administrator to the extent the entity is administering the Texas HOME Investment Partnerships program if the commission determines that granting the exemption is not inconsistent with the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Requires an individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years to retake the prelicensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act.

Sets forth requirements for individuals originating residential mortgage loans exclusively for certain depository institution.

Provides that provisions relating to the enrollment with the Department of Savings and Mortgage Lending (DSML) apply only to an individual who in any 12-consecutive-month period originates five or fewer residential mortgage loans exclusively for a single federally chartered depository institution and the loans are closed within that period; is contractually prohibited from soliciting, processing, negotiating, or placing a residential mortgage loan with a person other than the depository institution; and is sponsored by a life insurance company, or an affiliate of the company, authorized to engage in business in this state.

Requires such an individual, before conducting business in this state with respect to a residential mortgage loan, to enroll as a financial exclusive agent with DSML until the time any registration with the NMLSR is required for the individual by federal law or regulation and a suitable category is created for that registration with that nationwide registry.

Deeds in Lieu of Foreclosure—S.B. 1320

by Senators Lucio and Carona—House Sponsor: Representative Veronica Gonzalez

Unscrupulous developers and land sellers take advantage of low-income individuals who do not qualify for traditional financing mechanisms by using contracts for deeds on their land or home transactions. Users of contracts-for-deed land or home sales require buyers to execute a "deed-in-lieu of foreclosure" at the closing table. This bill:

Prohibits a seller of residential real estate or a person who makes an extension of credit and takes a security interest or mortgage against residential real estate, before or at the time of the conveyance of the residential real estate to the purchaser or the extension of credit to the borrower, from requesting or requiring the purchaser or borrower to execute and deliver to the seller or person making the extension of credit a deed conveying the residential real estate to the seller or person making the extension of credit.

Provides that a deed executed in violation of this bill is voidable unless a subsequent purchaser of the residential real estate, for valuable consideration, obtains an interest in the property after the deed was recorded without notice of the violation, including notice provided by actual possession of the property by the grantor of the deed.

Provides that the residential real estate continues to be subject to the security interest of a creditor who, without notice of the violation, granted an extension of credit to a borrower based on the deed executed in violation of this bill.

Requires a purchaser or borrower to bring an action to void a deed executed in violation of this bill not later than the fourth anniversary of the date the deed was recorded.

Authorizes a purchaser or borrower who is a prevailing party in an action to void a deed under this bill to recover reasonable and necessary attorney's fees.

Authorizes the attorney general to bring an action on behalf of the state for injunctive relief to require compliance with this bill; to recover a civil penalty of \$500 for each violation of this bill; or for both injunctive relief and to recover the civil penalty.

Provides that the attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, including court costs and reasonable attorney's fees.

Authorizes the court to make such additional orders or judgments as are necessary to return to the purchaser a deed conveying residential real estate that the court finds was acquired by means of any violation of this bill.

Requires an action by the attorney general to be brought not later than the fourth anniversary of the date the deed was recorded.

Provides that a justice court does not have jurisdiction in a forcible entry and detainer or forcible detainer suit and is required to dismiss the suit if the defendant files a sworn statement alleging the suit is based on a deed executed in violation of Chapter 21 (For-Profit Corporations), Business & Commerce Code.

Authority of a Co-Owner of Residential Property to Encumber the Property—S.B. 1368

by Senator West—House Sponsor: Representative Deshotel

After hurricanes Rita, Dolly, and Ike, TDHCA and the Texas Department of Rural Affairs were responsible for the distribution of disaster assistance. In many instances, individuals were unable to receive assistance because they were "informal" homeowners, or those whose ownership of the property was achieved outside of formal transactions. Informal homeowners, particularly those with co-tenant interests, face difficulties in securing resources to improve homes because the homeowner can only sell or secure a loan on their "fractionalized co-tenant interest." The open market does not typically allow for transactions in this manner. To give long-term homeowners the ability to secure resources from lenders or governmental entities, including federal and state disaster assistance, the Property Code must be amended to provide a co-owner with the authority to encumber residential property. This bill:

Allows an individual, who has been residing in and maintaining property for a sufficient period of time, to act as a statutory agent or as an attorney-in-fact, with the limited authority to enter into a contract giving rise to a mechanic's or material man's lien and to execute a deed of trust for the purpose of preserving or improving the residential property.

Provides that the occupying co-owner is the sole obligor of the debt incurred under the contract and secured by the deed of trust.

Eligibility for Dependents Under the State Employee Group Benefits Program—H.B. 755

by Representative Cook—Senate Sponsor: Senator Nichols

Under current law, switching to the Texas Employees Group Benefits Program (group benefits program) from another of the state's employee group benefits programs makes certain dependents ineligible for coverage. This bill:

Defines "dependent," with respect to an individual eligible to participate in the group benefits program, as a child of any age who lives with or has the child's care provided by the employee on a regular basis if the child is at least 25 years old and on the date the individual became eligible to participate in the group benefits program, was enrolled as the employee's dependent in health benefits coverage or in continuation of that dependent coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 and its subsequent amendments.

Rescission Period for Annuity Contracts—H.B. 1032

by Representative Smithee—Senate Sponsor: Senator Davis

A trial period for the purchase of insurance products such as annuities provides a consumer an opportunity to examine a recently purchased policy and to consult with friends, family, or a financial advisor to ensure that the long-term investment is appropriate for the consumer. A trial period also allows a consumer to receive a refund if the consumer decides to return the annuity. This bill:

Defines "annuity" as a fixed, variable, or modified guaranteed annuity that is individually solicited, whether classified as an individual annuity or group annuity.

Requires that a fixed annuity contract allows the purchaser, for a period of at least 20 days after the date the contract is delivered, to rescind the contract and receive an unconditional refund of premiums paid for the contract, including any contract fees or charges.

Requires that a variable or modified guaranteed annuity contract allow the purchaser, for a period of at least 20 days after the date the contract is delivered, to rescind the contract and receive an unconditional refund that is equal to the cash surrender value provided in the contract plus any fees or charges deducted from the premiums or imposed under the contract.

Establishes that the provisions of this bill do not apply to an annuity contract if the prospective owner is an accredited investor, as defined by the United States Securities and Exchange Commission.

Investment Authority of the Teacher Retirement System of Texas—H.B. 1061

by Representative Otto—Senate Sponsor: Senator Duncan

In 2007, the Texas Legislature authorized the Teacher Retirement System of Texas (TRS) to buy and sell investments commonly used by pension funds expressly to efficiently manage and reduce the risk of the overall investment portfolio. The legislature also authorized TRS to use external managers for up to 30 percent of the fund. These tools reduced TRS trading costs by more than \$200 million. This bill:

Extends Sections 825.301(a-1) and (a-2), Government Code, regarding investment of assets and future contracts and options to September 1, 2019, rather than 2012, and applies to the investment and reinvestment of assets of the retirement system only if the investment or reinvestment is made before September 1, 2019, rather than 2012.

Prohibits more than 10 percent of the value of the total investment portfolio of the retirement system from being invested in hedge funds before September 1, 2019.

Regulation of Certain Benefit Plans—H.B. 1772

by Representative Larry Taylor—Senate Sponsor: Senator Duncan

An exclusive provider organization (EPO) plan is a health plan offered by a health insurance company with a closed network and is similar to a health maintenance organization plan (HMO) which covers only services provided by network providers, with the exception of emergency services and out of network services when no network provider is available. Texas law does not allow for an exclusive provider organization plan. This bill:

Defines a "point of service plan" as an arrangement under which an enrollee chooses to obtain benefits or services through a HMO delivery network, including a limited provider network or a non-network delivery system outside the HMO delivery network, including an exclusive provider benefit plan or a limited provider network that is administered under an indemnity benefit arrangement for the cost of health care services.

Defines "exclusive provider benefit plan" as a benefit plan in which an insurer excludes benefits to an insured for some or all services, other than emergency care services, provided by a physician or health care provider who is not a preferred provider.

Provides that a preferred provider benefit plan or an exclusive provider benefit plan is not unjust, unfair discrimination, or a violation of provisions of the Insurance Code.

Establishes that Section 1301.0041 (Applicability), Chapter 1301 (Preferred Provider Benefits Plan), Insurance Code, applies to each preferred provider benefit plan in which an insurer provides for the payment of a level of coverage that is different, depending on whether an insured uses a preferred provider or a nonpreferred provider.

Provides that an exclusive provider benefit plan is subject to Chapter 1301, Insurance Code, in the same manner as a preferred provider benefit plan but excludes the child health plan program under the Health and Safety Code or a Medicaid managed care program under the Government Code.

Adds Section 1301.0042 (Applicability of Insurance Law) to the Insurance Code and provides that a provision of this code or another insurance law of this state that applies to a preferred provider benefit plan applies to an exclusive provider benefit plan except to the extent that the commissioner of insurance (commissioner) determines the provision to be inconsistent with the function and purpose of an exclusive provider benefit plan.

Prohibits an exclusive provider benefit plan providing dental care benefits.

Establishes that Chapter 1301, Insurance Code, may not be construed to limit the level of reimbursement or the level of coverage, including deductibles, copayments, coinsurance, or other cost-sharing provisions, that are applicable to preferred providers or for plans other than exclusive provider benefit plans, nonpreferred providers.

Establishes that Chapter 1301, Insurance Code, may not be construed to require an exclusive provider benefit plan to compensate a nonpreferred provider for services provided to an insured.

Establishes that Section 1301.0046 (Coinsurance Requirements for Services of Nonpreferred Providers), Insurance Code, which provides that the insured's coinsurance applicable to payment to nonpreferred providers may not exceed 50 percent of the total covered amount applicable to the medical or health care services, does not apply to an exclusive provider benefit plan.

Establishes that Sections 1301.005 (a) and (b), Insurance Code, which requires an insurer offering a preferred provider benefit plan to ensure that both preferred provider benefits and basic level benefits are reasonably available to all insureds with a designated service area, does not apply to an exclusive provider benefit plan.

Requires an insurer, if services are not available through a preferred provider within a designated service area under a preferred provider benefit plan or an exclusive provider benefit plan, to reimburse a physician or health care provider who is not a preferred provider at the same percentage level of reimbursement as a preferred provider would have been reimbursed.

Requires an insurer that offers an exclusive provider benefit plan to establish procedures to ensure that health care services are provided to insureds under reasonable standards or quality of care that are consistent with prevailing professionally recognized standards of care or practice.

Requires that procedures include mechanisms to ensure availability, accessibility, quality, and continuity of care; a continuing quality improvement program to monitor and evaluate services provided under the plan, including primary and specialist physician services and ancillary and preventive health care services, provided in institutional or noninstitutional settings; a method of recording formal proceedings of quality improvement program activities and maintaining quality improvement program documentation in a confidential manner; a physician review panel to assist the insurer in reviewing medical guidelines or criteria; a patient record system that facilitates documentation and retrieval of clinical information for the insurer's evaluation of continuity and coordination of services and assessment of the quality of services provided to insureds under the plan; a mechanism for making available to the commissioner the clinical records of insureds for examination and review by the commissioner on request of the commissioner; and a specific procedure for the periodic reporting of quality improvement program activities to the governing body and appropriate staff of the insurer and physicians and health care providers that provide health care under the plan.

Requires that minutes of a formal proceeding of the quality improvement program be made available to the commissioner on request of the commissioner.

Establishes that records made available to the commissioner are confidential and privileged and are not subject to open records provisions or to subpoena, except to the extent necessary for the commissioner to enforce Chapter 1301, Insurance Code.

Requires the issuer of an exclusive provider benefit plan, if a covered service is medically necessary and not available through a preferred provider, to approve the referral of an insured to a nonpreferred provider within a reasonable period and fully reimburse the nonpreferred provider at the usual and customary rate or at a rate agreed to by the issuer and the nonpreferred provider.

Requires that an exclusive provider benefit plan provide for a review by a health care provider with expertise in the same specialty as or a specialty similar to the type of health care provider to whom a referral is requested before the issuer of the plan may deny the referral.

Requires the issuer of the plan, if a nonpreferred provider provides emergency care to an enrollee in an exclusive provider benefit plan, to reimburse the nonpreferred provider at the usual and customary rate or at a rate agreed to by the issuer and the nonpreferred provider for the provision of the services.

Authorizes the commissioner to examine an insurer to determine the quality and adequacy of a network used by an exclusive provider benefit plan offered by the insurer.

Establishes that an insurer is subject to a qualifying examination of the insurer's exclusive provider benefit plans and subsequent quality of care examination by the commissioner at least once every five years.

Provides that documentation provided to the commissioner during an examination is confidential and is not subject to disclosure as public information.

Requires the insurer to pay the cost of the examination in an amount determined by the commissioner.

Requires the Texas Department of Insurance (TDI) to collect an assessment in an amount determined by the commissioner from the insurer at the time of the examination to cover all expenses attributable directly to the examination, including salaries and expenses of TDI employees and all reasonable expenses of TDI.

Requires TDI to deposit a collected assessment to the credit of the TDI operating account to be used to pay salaries and expenses of examiners and all other expenses relating to the examination of insurers.

Requires an insurer that offers an exclusive provider benefit plan to provide to a current and prospective group contract holder or current or prospective insured notice that the benefit plan includes limited coverage for services provided by a physician or health care provider that is not a preferred provider.

Requires that an identification card or similar document issued by an insurer to an insured in an exclusive provider benefit plan display the first date on which the insured became insured; a toll-free number that a physician or health care provider may use to obtain the date on which the insured became insured; and the acronym "EPO" or the phrase "exclusive provider organization" on the card in a location of the insurer's choice.

Operation and Regulation of Consolidated Insurance Programs—H.B. 2093

by Representative Thompson—Senate Sponsor: Senator Van de Putte

A centralized or consolidated insurance program (CIP) is a program under which one party procures insurance on behalf of all (or most) parties performing work on a project or a site. Typically, the coverages provided under a CIP include builders' risk, commercial general liability, workers' compensation, and umbrella liability. CIPs are most commonly used on single construction projects but other uses include contract maintenance on a large plant or facility or on an ongoing basis for multiple construction projects. Currently, there are no regulations regarding the duration of coverage provided by a CIP. This bill:

Adds Subtitle C (Programs Affecting Multiple Lines of Insurance), Chapter 151 (Consolidated Insurance Programs), Insurance Code.

Defines "CIPs," "construction projects," "contractor," "claim," "construction contract," "indemnitor," "insurer," and "principal."

Requires a CIP that provides general liability insurance coverage to provide completed operations insurance coverage for a policy period on not less than three years.

Provides that requirements related to indemnification apply to a construction contract for a construction project for which an indemnitor is provided or procures insurance subject to Chapter 151 (Consolidated Insurance Programs), Insurance Code, or Title 10 (Property and Casualty Insurance), Insurance Code, regardless of whether the insurance is provided or procured before or after execution of the contract.

Provides that a provision in a construction contract, or in an agreement collateral to or affecting a construction contract, is void and unenforceable as against public policy to the extent that it requires an indemnitor to indemnify, hold harmless, or defend a party, including a third party, against a claim caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract of the indemnitee, its agent or employee, or any third party under the control or supervision of the indemnitee, other than the indemnitor or its agent, employee, or subcontractor of any tier, excluding a provision in a construction contract that requires a person to indemnify, hold harmless, or defend another party to the construction contract or a third party against a claim for the bodily injury or death of an employee of the indemnitor, its agent, or its subcontractor of any tier.

Provides that a provision in a construction contract that requires the purchase of additional insured coverage, or any coverage endorsement, or provision within an insurance policy providing additional insured coverage, is void and unenforceable to the extent that it requires or provides coverage the scope of which is prohibited for an agreement to indemnify, hold harmless, or defend, excluding a provision in an insurance policy, or an endorsement to an insurance policy, issued under a consolidated insurance program to the extent that the provision or endorsement lists, adds, or deletes named insureds to the policy.

Provides that requirements related to indemnification to not affect an insurance policy; a cause of action for breach of contract or warranty that exists independently or an indemnity obligation; indemnity provisions contained in loan and financing documents; general agreements of indemnity; the benefits and protections under workers' compensation laws; the benefits and protections under the governmental immunity laws; agreements subject to Chapter 127 (Indemnity Provisions in Certain Mineral Agreements), Civil Practice and Remedies Code; a license agreement between a railroad company and a person that permits the person to enter the railroad company's property as an accommodation to the person for work under a construction contract that does not primarily benefit the railroad company; an indemnity provision to a claim based upon copyright infringement; an indemnity provision in a construction contract pertaining to a single family house, townhouse, duplex, or land development directly related thereto or a public works project or a municipality; or a joint defense agreement entered into after a claim is made.

Prohibits the waiver of a provision of Subtitle C, Chapter 151, Insurance Code, by contract or otherwise.

Continuing Education for Agents Who Sell Annuities—H.B. 2154

by Representatives Eiland and Torres—Senate Sponsor: Senator Ellis

In 2009, the 81st Legislature made changes to the Insurance Code in response to a biennial report published by TDI citing a high number of consumer complaints regarding complex insurance products and the need for additional continuing education requirements. This bill:

Requires each agent who sells, solicits, or negotiates a contract for an annuity or represents or purports to represent an insurer in relation to such an annuity to complete eight, rather than four, hours of continuing education that specifically relates to annuities during the agent's two-year licensing period.

Eligibility of Children Under Group Life Insurance Policies—H.B. 2172

by Representative Torres—Senate Sponsor: Senator Van de Putte

Section 1131.802 (Extension of Group Life Insurance to Spouses and Children; Eligible Children), Insurance Code, provides that insurance under a group life insurance policy may be extended to cover the spouse of each individual eligible to be insured under the policy; a natural or adopted child of each individual eligible to be insured under the policy if the child is unmarried and younger than 25 years of age or physically or mentally disabled and under the parents' supervision; or a natural or adopted grandchild of each individual eligible to be insured under the policy if the child is unmarried, younger than 25 years of age, and a dependent of the insured for federal income tax purposes. This bill:

Strikes the provision that the natural or adopted child or grandchild of each individual eligible to be insured be unmarried.

Provides that the natural or adopted child or grandchild be younger than 25 years of age or an older age stated in the policy.

Strikes the requirement that the natural or adopted grandchild of each individual eligible to be insured be a dependent of the insured for federal income tax purposes.

Life Settlements and Life Insurance and Annuity Contracts—H.B. 2277

by Representative Eiland—Senate Sponsor: Senator Williams

Texas passed suitability laws based on a nationally recognized insurance association's model law, establishing standards for agents and insurers making recommendations to consumers purchasing annuity products to ensure satisfaction of consumer needs and financial objectives. The United States Congress enacted financial reform legislation exempting certain insurance and annuity contracts from federal regulation and subjecting the contracts to state insurance law regulation if the state adopts certain nationally recognized suitability requirements within a certain timeframe. This bill:

Provides that it is not a rebate or discrimination prohibited by the Insurance Code for a life annuity contract, to waive surrender charges under the contract when the contract holder exchanges that contract for another annuity contract issued by the same insurer or an affiliate of the same insurer that is part of the same holding company group if the contract holder is given credit for the time that the previous contract was held when determining any surrender charges under the new contract.

Creates Chapter 1111A (Life Settlement Contracts) in the Insurance Code, to be cited as the Life Settlements Act.

Defines "advertisement," "broker," "business of life settlements," "chronically ill," "financing entity," "financing transaction," "fraudulent life settlement act," "insured," "life expectancy," "life insurance agent," "life settlement contract," "net death benefit," "owner," "patient identifying information," "policy," "premium finance loan," "person," "provider," "purchased policy," "purchaser," "related provider trust," "settled policy," "special purpose entity," and "terminally ill."

Establishes that a person may not act as a provider or broker with an owner who is a resident of this state unless the person holds a license from TDI.

Requires that the application for a provider or broker license be made to TDI and be accompanied by a fee in an amount established by the commissioner that must be reasonable and not exceed those established for an insurance agent.

Provides that a person who has been licensed as a life insurance agent in this state or the person's home state for at least one year and is licensed as a nonresident agent in this state meets the licensing requirements and may operate as a broker.

Requires a life insurance agent, not later than the 30th day after the first date of operating as a broker, to notify the commissioner that the agent is acting as a broker and is required to pay an applicable fee.

Provides that an insurer that issued a policy that is the subject of a life settlement contract is not responsible for any act or omission of a broker or provider or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of a life settlement contract from the provider, purchaser, or broker in connection with the life settlement contract.

Authorizes a person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the provider or purchaser, to negotiate life settlement contracts for the owner without having to obtain a license as a broker.

Establishes that a license expires on the second anniversary of the date of issuance and that a license holder may renew the license on payment of a renewal fee that may not exceed a reasonable fee.

Requires that an applicant provide the information that the commissioner requires and allows the commissioner, at any time, to require an applicant to fully disclose the identity of its stockholders, partners, officers and employees and to refuse to issue a license in the name of any person if the commissioner is not satisfied that an officer, employee, stockholder, or partner meets the standards provided in the Life Settlements Act.

Provides that a license issued to a partnership, corporation, or other entity authorizes each member, officer, and designated employee to act as a license holder under the license.

Requires the commissioner to investigate each applicant and to choose to issue a license if the applicant has provided a detailed plan of operation; is competent and trustworthy; has a good business reputation, experience, training, or education; is a state or foreign legal entity authorized to transact business or provides a certificate of good standing; and has provided an antifraud plan that includes certain descriptions of procedures and plans for antifraud education.

Prohibits the commissioner from issuing a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with TDI.

Requires a license holder to file an annual statement with TDI, not later than March 1 of each year.

Prohibits a provider from allowing any person to perform the functions of a broker unless the person holds a current, valid license as a broker.

Prohibits a broker from allowing any person to perform the functions of a provider unless the person holds a current, valid license as a provider.

Requires providers and brokers to provide new or revised information about officers, stockholders, partners, directors, members, or designated employees within 30 days of the change.

Requires an individual broker to complete on a biennial basis 15 hours of training related to life settlements and life settlement transactions.

Provides that the business of life settlements constitutes the business of insurance.

Authorizes the commissioner to suspend, revoke, or refuse to renew the license of a license holder if the commissioner finds that there was a material misrepresentation in the application; the license holder or an officer, partner, member, or director has been guilty of fraudulent or dishonest practices, is subject to a final administrative action, or otherwise shown to be untrustworthy or incompetent; the license holder is a provider and demonstrates a pattern of unreasonably withholding payments to policy owners; the license holder no longer meets the requirements for initial licensure; the license holder or any officer, partner, member, or director of the license holder has been convicted of a felony, or of any misdemeanor with respect to which criminal fraud is an element, or has pleaded guilty or nolo contendere to a felony or misdemeanor to which criminal fraud or moral turpitude is an element; the license holder is a provider and has entered into a life settlement contract using a form that has not been approved; the license holder is a provider and has failed to honor contractual obligations in a life settlement contract; the license holder is a provider and has assigned, transferred, or pledged a settled policy to a person other than a provider licensed in this state, a purchaser, an accredited investor or qualified institutional buyer, a financing entity, a special purpose entity, or a related provider trust; or the license holder or any officer, partner, member, or key management personnel of the license holder has violated the Life Settlements Act.

Authorizes the commissioner to deny a license application or suspend, revoke, or refuse to renew the license of a license holder in accordance with the administrative procedures in the Government Code.

Prohibits a person from using any form of life settlement contract unless the form has been filed and approved in a manner that conforms with the filing procedures, time restrictions, or deeming provisions for life insurance forms, policies, and contracts.

Prohibits an insurer from requiring that the owner, insured, provider, or broker sign any form, disclosure, consent, waiver, or acknowledgement that has not been expressly approved for use in connection with life settlement contracts.

Prohibits a person from using a life settlement contract form or providing to an owner a disclosure statement form unless the form is first filed with and approved by the commissioner.

Authorizes the commissioner to require the submission of advertisements.

Requires each provider, for a policy settled not later than the fifth anniversary of the date of policy issuance, to file not later than March 1 of each year an annual statement that must contain certain required information limited to only those transactions in which the insured is a resident of this state and may not include individual transaction data regarding the business of life settlements or information that could be used to identify the owner or the insured.

Provides that a provider that willfully fails to file an annual statement or reply to a written inquiry about filing will, in addition to other penalties, be subject to a penalty of up to \$250 for each day of delay, not exceeding \$25,000 in the aggregate, for failure to file or respond.

Prohibits a provider, broker, insurance company, insurance agent, information bureau, rating agency or company, or any other person from disclosing the identity of an insured or information that could be used to identify the insured or financial or medical information unless the disclosure is necessary to effect a contract and the owner and insured have provided written consent; necessary to effectuate the sale of a contract; provided in response to an investigation or examination; a term or condition of the transfer of a policy; necessary to allow the provider or broker to make contact for the determination of health status; or required to purchase stop loss coverage.

Provides that nonpublic personal information solicited or obtained in connection with a proposed or actual life settlement contract is subject to the provisions applicable to financial institutions and any other state and federal laws relating to confidentiality of nonpublic personal information.

Provides immunity from liability for the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for a statement made or conduct performed in good faith while carrying out the Life Settlements Act.

Provides immunity from liability for any person for communicating or delivering information to the commissioner if the communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

Authorizes the commissioner to investigate a suspected fraudulent life settlement act and a person engaged in the business of life settlements.

Provides that the reasonable and necessary cost of an examination is to be assessed against the person being examined.

Authorizes a broker or provider to conduct or participate in an advertisement in this state that complies with all advertising and marketing laws and rules adopted by the commissioner and is accurate, truthful, and not misleading in fact or by implication.

Prohibits a person from marketing, advertising, soliciting, or otherwise promoting the purchase of a policy for the sole purpose of or with an emphasis on settling the policy or from using the words "free," "no cost," or words of similar import in the marketing, advertising, or soliciting of, or otherwise promoting, the purchase of a policy.

Requires the broker to provide information to the owner not later than the date of application for a life settlement contract, including the fact that possible alternatives to life settlement contracts exist; that some or all of the proceeds of a life settlement contract may be taxable; that the proceeds from a life settlement contract could be subject to the claims of creditors; that receipt of proceeds from a life settlement contract may adversely affect the recipients' eligibility for public assistance or other government benefits or entitlements; that the owner has a right to terminate a life settlement contract with 15 days of the date the contract is executed by all parties; that proceeds will be sent to the owner within three business days after the provider has received the insurer or group administrator's acknowledgement that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated in accordance with the terms of the life settlement contract; that entering into a life settlement contract may cause the owner to forfeit other rights or benefits; the amount and method of calculating the compensation; the date by which the funds will be available to the owner and the identity of the transmitter of the funds; that the commissioner requires delivery of a buyer's guide or similar consumer advisory package to owners during the solicitation process; specific language regarding the sharing of medical, financial, or personal information and signed fraud warnings on applications and life settlement contracts; that the insured may be contacted by either the provider or broker to determine health status or verify address once every three months if the insured has a life expectancy of more than one year; the affiliation, if any, between the provider and the issuer of the insurance policy to be settled; that a broker represents exclusively the owner; the name, address, and telephone number of the provider; the name, business address, and telephone number of the independent third party escrow agent; and that a change of ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life.

Requires that written disclosures be conspicuously displayed in the life settlement contract.

Requires a broker to provide the owner and the provider with at least the contact information for the broker; a full, complete and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract; a written notice of any affiliations or contractual arrangements; the name of each broker who receives compensation and the amount of the compensation; and a complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds to be received.

Defines a "gross offer or bid" as the total amount or value offered by the provider for the purchase of one or more life insurance policies, inclusive of commissions and fees.

Provides that the failure to provide the disclosures or rights is an unfair method of compensation or an unfair or deceptive act or practice.

Authorizes an insurer to inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.

Requires that the application be rejected as a violation of provisions of the Life Settlements Act if the loan provides funds that can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan.

Provides that the insurance carrier may make disclosures, not later than the date of the delivery of the policy, to the applicant and the insured, regarding the fact that the loan arrangement is one in which the policy is used as collateral and the consequences of a change of ownership; may require certain certifications from the applicant or the insured that the applicant or insured have not entered into any agreement for the future sale of the life insurance policy and other financial assurances.

Requires that the provider, before entering into a life settlement contract with an owner of a policy with respect to which the insured is terminally or chronically ill, obtain a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a settlement contract and a document consenting to the release of medical records.

Requires an insurer to respond to a request for verification of coverage not later than the 30th day after the date the request is received.

Requires the provider to obtain a witnessed document in which the owner consents to the settlement contract.

Provides that the insurer may not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract.

Requires the provider, not later than the 20th day after the date that an owner executes the life settlement contract, to give written notice that the policy has become subject to a life settlement contract.

Provides that medical information solicited or obtained by a license holder is subject to the applicable provision of state law relating to confidentiality.

Requires that the life settlement contract provide that the owner may rescind the contract on or before the 15th day after the date the contract is executed by all parties to the contract.

Requires that the provider, not later than the third business day after the date the provider receives the documents to effect the transfer of the insurance policy, pay the proceeds of the settlement into an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgement of the transfer by the issuer of the policy and requires the trustee or escrow agent to transfer the proceeds due to the owner within three business days.

Provides that failure to tender the proceeds renders the contract voidable until the proceeds are tendered to and accepted by the owner.

Provides that a fee paid by the provider, an owner, or other person to a broker must be computed as a percentage of the offer obtained, not the face value of the policy.

Requires a broker to disclose to the owner anything of value paid or given to a broker that relates to a life settlement contract.

Prohibits a person, at any time prior to or at the time of the application, or issuance of, a policy, or during a two-year period beginning on the date of issuance of the policy, from entering into a life settlement contract, with some exceptions.

Provides that the time covered under a group policy must be calculated without regard to a change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

Requires that copies of independent evidence be submitted to the insurer at the time the provider submits a request to the insurer for verification of coverage.

Authorizes the commissioner to adopt rules implementing the Life Settlements Act and regulating the activities and relationships of providers, brokers, insurers, and their authorized representatives.

Prohibits the commissioner from adopting a rule that regulates the actions of an investor providing money to a life or viatical settlement company.

Provides that if there is more than one owner on a single policy, and the owners are residents of different state, the life settlement contract is governed by the law of the state in which the owner having the largest percentage of ownership resides.

Establishes provisions addressing a situation in which a provider licensed in this state enters into a life settlement contract with an owner who is a resident of another state.

Prohibits a person from entering into a life settlement contract if the person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive, or misleading application; engaging in a transaction to avoid the notice requirements of the Life Settlements Act; engaging in a fraudulent act or practice in connection with a transaction relating to any settlement involving an owner who is a resident of this state; issuing, soliciting, marketing, or promoting the purchase of an insurance policy for the purpose of settling the policy; receiving proceeds, fee, or other consideration from the policy or owner in addition to the amounts required to pay principal, interest, and costs or expenses incurred; knowingly soliciting an offer from, effectuating a life settlement contract with, or making a sale to any provider, financing entity, or related provider trust that is controlling the broker, unless fully disclosed; knowingly entering into a life settlement contract with an owner if anything of value will be paid to a broker that is controlling the provider or financing the entity, unless fully disclosed to the owner; entering into a life settlement contract unless the life settlement promotional advertising and marketing materials have been filed with the commissioner; or making any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder.

Provides that a person may not commit a fraudulent life settlement act; interfere with the enforcement of or investigation of a suspected or actual violation; or knowingly permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.

Requires that a life settlement contract and an application for a life settlement contract contain a statement regarding the consequences of knowingly presenting false information in an application.

Provides that a person engaged in the business of life settlements has a duty to report a fraudulent life settlement act.

Provides that the documents and evidence obtained by the commissioner in an investigation of a suspected or actual fraudulent life settlement act are privileged and confidential, are not public record, and are not subject to discovery or subpoena in a civil or criminal action, unless in an administrative or judicial proceeding.

Provides that the Life Settlements Act does not preempt the authority or relieve the duty of another law enforcement or regulatory agency to investigate, examine, and prosecute a suspected violation of law; preempt, supersede, or limit any provision of any state securities law or any rule, order, or notice issued under the law; prevent or prohibit a person from disclosing voluntarily information concerning life settlement fraud to a law enforcement or regulatory agency; or limit the powers granted to the commissioner or an insurance fraud unit to investigate and examine a possible violation of law and to take appropriate action against wrongdoers.

Requires that a provider or broker implement antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent life settlement acts that include investigators, antifraud plans, descriptions of procedures for detecting and reporting fraud, education and training, and an organizational arrangement.

Authorizes the commissioner, if any person violates the Life Settlements Act, to seek an injunction in a court in the county where the person resides or has a principal place of business and may apply for temporary and permanent orders to restrain the person from further committing the violation.

Authorizes the commissioner to issue a cease and desist order against a person who violates any provision of the Life Settlements Act, a rule or order adopted by the commissioner, or any written agreement entered into with the commissioner.

Authorizes the commissioner, if the commissioner finds that an action in violation of the Life Settlements Act presents an immediate danger to the public and requires an immediate final order, to issue an emergency cease and desist order.

Provides that it is a violation of the Life Settlements Act for any person, provider, broker, or any other party related to the business of life settlement to commit a fraudulent life settlement act.

Provides that a person who knowingly, recklessly, or intentionally commits a fraudulent life settlement act commits a criminal offense and is subject to penalties under Chapter 35 (Insurance Fraud), Penal Code.

Establishes and lists other insurance laws that apply to a person engaged in the business of life settlements.

Exempts from some provisions a broker who acts solely as a life expectancy estimator and authorizes the commissioner to exempt a broker who acts only as a life expectancy estimator from other provisions if the application of the provisions to the broker is not necessary for the public welfare.

Requires an insurer that offers to waive surrender charges to provide reasonable notice of that offer by any available means, including a disclosure document or by display on a link on the insurer's Internet website.

Defines "annuity," "continuing education provider," "insurer," "recommendation," "replacement," and "suitability information."

Provides that the Life Settlements Act applies to any recommendation to purchase, replace, or exchange an annuity that is made to a consumer by an agent or an insurer if an agent is not involved and result in the recommendation purchase, replacement, or exchange.

Provides that the Life Settlements Act does not apply to certain transactions, including employee pension or welfare benefit plans, government or church plans, nonqualified deferred compensation arrangements, prepaid funeral benefits plans, and other transactions.

Requires the agent or insurer, in recommending to a consumer the purchase of an annuity or exchange of an annuity to have a reasonable basis to believe that the recommendation is suitable for the consumer; the consumer has been reasonably informed of various features of the annuity; the consumer would benefit from certain features of the annuity; the particular annuity and its components are suitable; and an exchange or replacement is suitable.

Requires an agent or insurer, before the execution of a purchase, exchange, or replacement of an annuity, to make reasonable efforts to obtain the consumer's suitability information.

Prohibits an insurer from issuing an annuity recommended to a consumer unless the insurer has a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

Provides that an agent or insurer does not have any obligation to a consumer related to an annuity transaction if the consumer refuses to provide suitability information; the agent or insurer does not make a recommendation; the agent or insurer makes a recommendation later found to have been prepared based on inaccurate material information provided by the consumer; or the consumer decides to enter into a transaction not based on a recommendation of the agent or insurer.

Provides that an insurer's issuance of an annuity must be reasonable under all circumstances actually known to the insurer at the time the annuity is issued.

Requires an agent or an insurer to, at the time of sale of an annuity, make a record of any recommendations made by the agent or insurer; obtain a customer-signed statement documenting the customer's refusal, if any, to provide suitability information; and obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if the customer decides to enter into an annuity transaction that is not based on the agent's or insurer's recommendation.

Requires each insurer to establish supervision that is reasonably designed to achieve the insurer's and the insurer's agents' compliance with the Life Settlements Act and establishes guidelines for components of a system of supervision, monitoring, and reporting procedures.

Provides that sales made with the conduct rules of the Financial Industry Regulatory Authority relating to suitability and supervision of annuity transactions, or the rules of another national organization recognized by the commissioner, satisfy the requirements of the Life Settlements Act.

Prohibits an agent from soliciting the sale of annuity product unless the agent has adequate knowledge of the product to recommend the annuity and is in compliance with the insurer's standards for product training.

Requires that an agent who engages in the sale of annuity products complete a one-time training course approved by TDI and provided by a continuing education provider.

Establishes the provisions, sufficient length, topics, and provider requirements for an annuity training course.

Provides that, with regard to mitigation, an insurer is responsible for compliance with the Life Settlements Act and authorizes the commissioner to order the insurer, a general agency, independent agency, or the agent to take reasonable appropriate corrective action for any consumer harmed by the insurer or by the insurer's agent and to impose appropriate sanctions.

Requires the commissioner to reduce or eliminate a sanction for a violation if the violation was not part of a pattern or practice.

Nonrenewal of Property and Casualty Insurance Policies—H.B. 2382

by Representatives Murphy and Torres—Senate Sponsor: Senator Estes

Under current law, an insurer is obligated to continue covering risk if it fails to send the insured written notice of nonrenewal at least 30 days before the date on which the policy expires. This requirement is not waived if the insured later obtains coverage from a different insurer. Thus, in a situation where an insurance company refused to renew a policy without giving proper notice and the insured obtained a new policy from a new company, the old

company would have to continue to cover the risk. The property would receive double coverage by operation of law. This bill:

Requires that the insurance policy, notwithstanding the failure of an insurer to comply with Section 551.105 (Nonrenewal of Policies; Notice Required), Insurance Code, terminate on the effective date of any replacement or succeeding insurance policy with another carrier with respect to the insured personal automobile; home, farm, ranch, dwelling, duplex, or apartment; or other real or personal property

Cemeteries and Perpetual Care Cemetery Corporations—H.B. 2495

by Representative Hernandez Luna—Senate Sponsor: Senator Carona

A perpetual care or endowment care cemetery is a cemetery for which a perpetual care fund has been established in conformity with state laws to provide for the ongoing maintenance, repair, and care of the cemetery. All cemeteries established after September 1, 2003, are required to be licensed by the Texas Department of Banking (TDB) as a perpetual care cemetery and must have a certificate of authority. Since 2003, a number of issues have arisen in connection with the regulation of perpetual care cemeteries. This bill:

Provides that if the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th day after the date the person received notice of the decedent's death or the 10th day after the date the decedent died, the person is presumed to be unable or unwilling to control the disposition; and the person's right to control the disposition is terminated and the right to control the disposition is passed to the certain persons in a certain the priority.

Authorizes a lawn crypt that is part of a private estate to be installed in fewer than 10 units and provides that a private estate is a small section of a cemetery that is sold under a single contract; is usually offset from other burial sites; allows for interment of several members of the same family or their designees; and is identified on the plat for cemetery property as a private estate.

Requires that a cemetery in which undeveloped lawn crypt spaces are being sold or reserved for sale begin construction on the lawn crypt section not later than 48 months after the date of the first sale or reservation, whichever is earlier, and complete construction not later than 60 months after the date of the first sale or reservation, whichever is earlier.

Requires that the cemetery, if construction of a lawn crypt section does not begin or has not been completed by the dates specified on the buyer's written request, refund the entire amount paid for the undeveloped lawn crypt space not later than the 30th day after the date of the buyer's request.

Requires that a sales contract for undeveloped lawn crypt space comply with applicable regulations of the Federal Trade Commission, including 16 C.F.R. Section 433.2, with respect to a contract payable in installments.

Requires that a sales contract for an undeveloped lawn crypt space contain terms, whether in English or Spanish, that inform the buyer of certain information and requires that each notice be written in plain language designed to be easily understood by the average consumer and be printed in an easily readable font and type size.

Prohibits a perpetual care cemetery from being operated in this state unless a certificate of formation for a domestic filing entity or registration to transact business for a foreign filing entity is filed with the secretary of state (SOS) showing certain information, including subscriptions and payments in cash for 100 percent of the entity's ownership or membership interests.

Requires a corporation that operates one or more perpetual care cemeteries in this state (corporation) to hold a certificate of authority to operate a perpetual care cemetery.

Requires an applicant, to obtain a certificate of authority to operate a perpetual care cemetery, to not later than the 30th day after the date a corporation files its certificate of formation or application for registration with SOS, file an application, made under oath, on a form prescribed by the Banking Department of Texas (TDB); and pay a filing fee in an amount set by the finance commission under Section 712.008 (Rules).

Authorizes the banking commissioner of Texas (banking commissioner), if the corporation fails to comply, to instruct SOS to remove the corporation from SOS's active records or cancel the corporation's registration.

Requires SOS, on an instruction from the banking commissioner, to remove the corporation from SOS's active records or cancel the corporation's registration and serve notice of the cancellation on the corporation by registered or certified letter, addressed to the corporation's address.

Authorizes the banking commissioner to investigate an applicant before issuing a certificate of authority.

Requires an applicant, to qualify for a certificate of authority, to demonstrate to the satisfaction of the banking commissioner that certain conditions are met.

Requires the banking commissioner to issue a certificate of authority if the commissioner finds that the applicant meets the qualifications and it is reasonable to believe that the applicant's cemetery business will be conducted fairly and lawfully, according to applicable state and federal law, and in a manner commanding the public's trust and confidence; the issuance of the certificate of authority is in the public interest; the documentation and forms required to be submitted by the applicant are acceptable; and the applicant has satisfied all requirements for issuance of a certificate of authority.

Sets forth requirements for the issuance, renewal, and surrender of a certificate of authority.

Prohibits a certificate of authority from being transferred or assigned.

Requires a certificate holder to notify TDB in writing of a transfer of ownership of the certificate holder's business or a transfer of 25 percent or more of the stock or other ownership or membership interest of the corporation as follows within a certain time period.

Authorizes the proposed transferee, if the proposed transferee is not a certificate holder, to file any necessary documents with SOS and an application for a certificate of authority with TDB as required by this chapter.

Authorizes a corporation authorized by law to operate a perpetual care cemetery but not doing so to do so if the corporation, among other criteria, complies with the requirements for obtaining a certificate of authority.

Authorizes the banking commissioner to issue an order requiring restitution by a person, to the cemetery's fund or to a preconstruction trust, if, after notice and opportunity for hearing held in accordance with the procedures for a contested case hearing, the banking commissioner finds that the corporation has not made a deposit in the fund as required.

Authorizes the banking commissioner to issue an order requiring restitution by a person if, after notice and opportunity for a hearing held in accordance with the procedures for a contested case hearing, the banking commissioner finds that the corporation has not ordered memorials in compliance with the deadlines established by rules adopted under Chapter 712 (Perpetual Care Cemeteries), Health and Safety Code.

Authorizes, rather than requires, the trier of fact, if, after a hearing is conducted, the trier of fact finds that a violation Chapter 712 or a rule of the finance commission establishes a pattern of willful disregard for the requirements or rules of the finance commission, to recommend to the banking commissioner that the maximum administrative penalty permitted be imposed on the person committing the violation or that the banking commissioner cancel or not renew the corporation's certificate of authority if the person holds such a certificate.

Authorizes the banking commissioner to issue an order to cease and desist to a person if the commissioner finds by examination or other credible evidence that the person has violated a law of this state relating to perpetual care cemeteries, and the violation was not corrected by the 31st day after the date the person receives written notice of the violation from TDB.

Authorizes the banking commissioner to issue an emergency order that takes effect immediately if the commissioner finds that immediate and irreparable harm is threatened to the public or a plot owner, marker purchaser, or other person whose interests are protected by Chapter 712.

Authorizes the attorney general, in conjunction with a proceeding to forfeit the right to do business in this state brought by the attorney general, to seek the appointment of a receiver.

Requires the receiver, if the receiver is a private party, to be compensated from the corporation or, if the corporation has no assets available to pay the receiver, from the income only of the perpetual care fund.

Authorizes the court to appoint a TDB employee as a receiver.

Prohibits the employee, if the receiver is a TDB employee, from receiving compensation for serving as a receiver in addition to the employee's regular salary.

Authorizes TDB to receive reimbursement from the corporation for the travel expenses and the fully allocated personnel costs associated with the employee's service as receiver.

Provides that a TDB employee serving as receiver is not personally liable for damages arising from the employee's official act or omission unless the act or omission is corrupt or malicious.

Requires the attorney general to defend an action brought against an employee serving as receiver because of an official act or omission as receiver regardless of whether the employee has terminated service with TDB before the action commences.

Provides that a person commits an offense if the person collects money for the purchase of a memorial and knowingly defalcates or misappropriates the funds and provides that such an offense is punishable as if it were an offense under Section 32.45 (Misapplication of Fiduciary Property or Property of Financial Institution), Penal Code.

Does not prevent an aggrieved party or the attorney general from maintaining a civil action for the recovery of damages, or the commissioner from maintaining an administrative action for restitution, caused by an injury resulting from an offense.

Repeals Sections 711.062 (Request to Install Lawn Crypt in Fewer than 10 Units), 712.0031 (Notices to Banking Department), and 712.0441(e) (relating to authorizing the banking commissioner to order a cease and desist), Health and Safety Code.

Foreign Corporations and Partnerships Insurance Agent Licenses—H.B. 2503

by Representative Thompson—Senate Sponsor: Senator Elife

Current law allows insurance agent licenses to be issued to certain foreign corporation and partnership insurance agencies wishing to do business in Texas. TDI issues a non-resident license to an out-of-state agency if it meets certain requirements, including registration with SOS. TDI has taken the position that all non-resident licensee applicants are required to register with SOS even though some foreign corporations and partnerships are not required to register. This bill:

Deletes existing text requiring TDI to issue a license to a corporation or partnership if TDI determines that the corporation is admitted to engage in business in this state by SOS, if required.

Unencumbered Assets Held by Title Agents—H.B. 2604

by Representative Larry Taylor—Senate Sponsor: Senator Harris

Currently, TDI is authorized to require minimum capitalization amounts for title agents. This bill:

Authorizes the reserves for contingencies to only be spent or released under certain circumstances, including if the agent's license is revoked.

Authorizes a title insurance agent (agent) to maintain a solvency account to accrue and hold unencumbered assets.

Requires that a solvency account (account) be in a financial institution in this state that is insured by an agency of the United States; accessible only to TDI, on order of the commissioner; and audited in the same manner provided for trust funds by Section 2651.151 (Annual Audit of Trust Fund Accounts: Title Insurance Agents and Direct Operations).

Authorizes an account to be established by an initial deposit in an amount less than the amount provided by Section 2651.012(c) (relating to requiring an agent to maintain unencumbered assets with a market value in excess of liabilities, exclusive of the value of abstract plants).

Requires that an account established by an initial deposit of an amount less than the amount provided by Section 2651.012(c) be funded with a minimum deposit in the amount for each policy of title insurance issued by the agent that is equal to the greater of \$5 or one percent of the agent's portion of the retained premium received by the agent rounded to the nearest whole dollar.

Requires that deposits to the account be made at least quarterly and be made from and based on the agent's portion of retained premiums collected during the calendar quarter during which premiums were collected.

Requires that interest that accrues in an account the principal balance of which is less than the amount provided by a certain section of this bill be retained in the account and that interest that accrues in an account the principal balance of which is greater than the amount provided by that section of this bill be paid to the agent maintaining the account.

Authorizes the commissioner to issue an order to access or release funds held in an account if certain events occur.

Requires the commissioner by rule to adopt procedures and requirements for the release, transfer, or expenditure of the funds held in an account.

Requires that the rules establish the procedures and requirements by which TDI is required to account for any expenditures that TDI makes from an account or funds transferred by TDI to a third party.

Authorizes the agent, if the agent or an agent's principal office voluntarily ceases to engage in business, surrenders the agent's license, and liquidates the agent's assets, to apply to TDI in a form prescribed by the commissioner by rule for the release of the agent's solvency account.

Requires the commissioner, not later than the 60th day after the date TDI receives an application provided that the title agent complied with all applicable rules adopted, to enter an order authorizing the financial institution in which the solvency account is held to release all or part of the account balance to the agent or the agent's principal office.

Provides that if the commissioner does not enter the order within that 60-day period, the application is denied.

Authorizes an agent to appeal an order of the commissioner or denial of an application without an order by filing a petition in a district court of Travis County to seek injunctive or other relief against the commissioner.

Provides that an account established, funded, and maintained complies with the requirement for maintenance of unencumbered assets, regardless of whether the amount required is fully accrued.

Authorizes the amount required by Section 2651.012(c) to be accrued in an account according to the schedule established by statute or as provided by the commissioner by rule.

Requires an agent who closes the transaction and remits premium to the title insurance company, in a home office transaction in which a title insurance company issues a policy of title insurance, to make the deposit required.

Requires that the annual audit of escrow accounts, unless the agent has elected to make a deposit with the department, be accompanied by a certification by the title insurance agent or direct operation that the title insurance agent has the appropriate unencumbered assets in excess of liabilities, exclusive of the value of its abstract plants.

Requires the commissioner by rule to establish the method by which the certification required by this section must be made, which is prohibited from including an audit of operating accounts or a certification by a certified public accountant.

Renewal of Property and Casualty Insurance Policy—H.B. 2655

By Representative Sheets—Senate Sponsor: Senator Carona

Insurers offering a policy renewal to a customer that includes a reduction in coverage, such as a higher deductible due to claims frequency, often must not renew the customer or threaten to not renew the customer in order to obtain the customer's signed authority to institute the higher deductible or other reduced coverage so that the coverage will continue after the annual renewal date. As a result, possible confusion over what constitutes a reduction in coverage may result in some insurers introducing changes in coverage by using this method to be on the safe side. This bill:

Prohibits an insurer from using an endorsement to a policy form to which certain provisions apply that reduces coverage that would otherwise be provided under the policy unless the insured requests the endorsement; or the insurer provides the policyholder with a written explanation of the change made by the endorsement not later than the 30th day before the date on which the policy expires.

Requires an insurer, unless the insurer has mailed written notice of nonrenewal or renewal with notice of change in coverage to the insured not later than the 30th day before the date on which the insurance policy expires, to renew an insurance policy, at the request of the uninsured, on the expiration of the policy.

Prepaid Funeral Contract Guaranty Fund—H.B. 3004

by Representative Nash—Senate Sponsor: Senator Carona

TDI maintains guaranty funds for insurance companies, the purpose of which is to ensure that policyholders of participating insurers are protected and can be made whole in the event an insurer becomes insolvent. The guaranty funds are funded by the insurance companies covered by the guaranty fund. TDB maintains a guaranty fund for insurers issuing prepaid funeral benefits contracts. Under current law, the prepaid funeral contract guaranty fund protects policyholders from insurance company insolvency, but does not cover instances where a funeral home/cemetery may become insolvent. In these cases, the insurance company is required to locate a funeral home/cemetery that can provide the services covered under the benefits contract, and the costs associated with such a change can increase due to inflation. This bill:

Requires the finance commission by rule to establish and TDB to maintain a fund to guarantee performance by sellers of prepaid funeral benefits contracts and funeral providers under those contracts of their obligations to purchasers.

Authorizes the prepaid funeral contract guaranty fund (fund) or a portion of the fund to be deposited with the comptroller of public accounts (comptroller); with a federally insured financial institution that has its main office or branch in this state; or in trust with a financial institution that has its main office or a branch in this state and is authorized to act as a fiduciary in this state.

Requires the comptroller, if the fund or a portion of the fund is deposited with the comptroller, to manage the deposit, rather than fund, as trustee of the money outside the state treasury.

Deletes existing text requiring the attorney general or the attorney general's representative to be a member of the advisory council charged with supervising the operation and maintenance of the fund (advisory council).

Authorizes the advisory council, notwithstanding Chapter 551 (Open Meetings), Government Code, or any other law, to hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication under certain conditions.

Authorizes TDB to assert a claim against a seller, funeral provider, or depository that commits a violation that could result in a claim against the fund.

Authorizes the fund, in addition to other authorized uses, to be used to pay, among other things:

- a loss attributable to the failure or inability of a permit holder or funeral provider to perform its obligations under a prepaid funeral benefits contract, rather than the inability of a permit holder or funeral provider to perform the permit holder's obligations under a prepaid contract;
- expenses of a plan to arrange for another permit holder or funeral provider to assume the obligations of the permit holder or funeral provider under a prepaid funeral benefits contract or a group of prepaid funeral benefits contracts if the banking commissioner of Texas finds, with the advice and consent of the advisory council, that the plan is reasonable and in the best interests of the contract beneficiaries;
- administrative expenses related to servicing and handling outstanding prepaid funeral benefits contracts that have not been assumed by another permit holder, or the obligations under which have not been assumed by another funeral provider; and
- expenses for administering the receivership of an insolvent permit holder or funeral provider if the permit holder's or funeral provider's assets are insufficient to pay those expenses.

Requires a permit holder that administers a prepaid funeral benefits contract for which the permit holder is not the funeral provider, and there is an actual or anticipated failure or inability of the funeral provider to perform its

obligations under the contract, to make a reasonable effort to find a substitute funeral provider willing to assume the contractual obligations of the defaulting funeral provider.

Requires a permit holder that is unable to locate a substitute funeral provider to submit certain information to the advisory council relating to the prepaid funeral contract.

Requires the permit holder to cooperate with TDB and the advisory council in facilitating selection of a substitute funeral provider by complying with any reasonable request for additional information; assistance in negotiating with a potential substitute funeral provider; or assistance in communicating with a purchaser of an affected prepaid funeral benefits contract.

Discretionary Clauses in Health Care and Insurance Contracts—H.B. 3017

by Representative Smithee—Senate Sponsor: Senator Duncan

Some insurance products contain discretionary clauses that require courts to give discretion to an insurer's interpretation of policy terms and coverage determinations under the policy. While the health insurance contract may list the benefits payable under the policy terms, the discretionary clause makes those payments contingent upon the insurer's discretion. This bill:

Prohibits an evidence of coverage from containing a discretionary clause provision.

Establishes that a discretionary clause provision includes a provision that purports or acts to bind the enrollee to, or grant deference in subsequent proceedings to, adverse eligibility or benefit decisions or interpretations of the evidence of coverage by the HMO.

Establishes that a discretionary clause provision includes a provision that specifies that an enrollee or other claimant may not contest or appeal a denial of a benefit; that the HMO's interpretation of the terms of an evidence of coverage or other form or its decision to deny coverage or the amount of benefits is binding on an enrollee or other claimant; that in an appeal, the HMO's decision-making power as to the interpretation of the terms or an evidence of coverage or other form, or as to coverage, is binding; or a standard of review in any appeal process that gives deference to the original benefit decision or provides standards of interpretation or review that are inconsistent with the laws of this state, including the common law.

Prohibits an insurer in this state from using a policy, contract, or certificate of insurance if the document contains a discretionary clause.

Establishes that a discretionary clause provision includes a provision that purports or acts to bind the claimant to, or grant deference in subsequent proceedings to, adverse eligibility or claim decisions or policy interpretations by the insurer.

Establishes that a discretionary clause provision includes a provision that specifies that a policyholder or other claimant may not contest or appeal a denial of a claim; that the insurer's interpretation of the terms of a document or decision to deny coverage or the amount of benefits is binding upon a policyholder or other claimant; that in an appeal, the insurer's decision about or interpretation of the terms a document or coverage is binding; or a standard of review in any appeal process that gives deference to the original claim decision or provides standards of interpretation or review that are inconsistent with the laws of this state, including the common law.

Limited Purpose Subsidiary Life Insurance—H.B. 3161

by Representative Hancock—Senate Sponsor: Senator Van de Putte

Limited purpose subsidiary life insurance (LPSLI) is a subsidiary life reinsurer that is organized and wholly owned by an organizing domestic reinsurer. This bill:

Adds Subchapter I (Limited Purpose Subsidiary Life Insurance Companies) to Chapter 841 (Life, Health, or Accident Insurance Companies) of the Insurance Code.

Establishes that the purpose of Subchapter I, Insurance Code, is to authorize the establishment of domestic LPSLI companies to enable those companies to support excess reserves for certain life insurance policies.

Defines "affiliated company," "appointed actuary," "ceding insurer," "controlled person," "excess reserves," "guarantor," "guaranty," "holding company," "insurer," "letter of credit," "limited purpose subsidiary life insurance company," "material transaction," "organizational document," "organizing company," "parent," "person," "reinsurance contract," and "risk."

Authorizes a wholly owned domestic insurer authorized to transact the business of insurance to organize an LPSLI company.

Authorizes an LPSLI company to reinsure risks of the organizing company and of an affiliated company.

Requires that the LPSLI company's organizational documents limit the company's authority to transact the business of insurance to reinsuring only the risks of a ceding insurer; provide that the LPSLI company may not otherwise engage in the business of insurance; and provide that the LPSLI company must always be wholly owned by a domestic insurer authorized to transact the business of insurance.

Prohibits an LPSLI company from engaging in the business of reinsurance in this state unless the LPSLI company obtains from the commissioner a certificate of authority.

Provides that in order to obtain a charter for an LPSLI company, the incorporators must pay a charter fee and file an application for charter; the company's articles of incorporation; an affidavit made by the company's president, vice president, treasurer, or chief financial officer; a business plan; a copy of proposed guaranty; an opinion of a qualified independent actuary; and any other statement or document required by the commissioner to evaluate the LPSLI company's application for a certificate of authority.

Authorizes the officers and directors of a company that organizes an LPSLI company to serve as officers and directors of the LPSLI company.

Authorizes the commissioner to issue a certificate of authority to an LPSLI company, authorizing the company to transact reinsurance business in this state as an LPSLI company if the commissioner finds that the company meets all necessary requirements.

Authorizes the commissioner, in conjunction with the issuance of a certificate of authority, to issue an order that includes provisions, terms, and conditions regarding the organization, licensing, and operation of the LPSLI company.

Provides that an LPSLI company that has been issued a certificate or authority may reinsure only the risks of a ceding insurer and may not otherwise engage in the business of insurance and may purchase reinsurance to cede the risks assumed under the reinsurance contract.

Requires that an LPSLI company provide the commissioner with a notice of any change in the company's business plan.

Provides that the commissioner may not issue a certificate of authority to an LPSLI company unless the company possesses and maintains unimpaired paid-in capital and surplus of not less than \$10 million.

Requires that an LPSLI company comply with the risk-based capital requirements adopted by the commissioner and maintain a risk-based capital in an amount that is at least equal to 300 percent of the authorized control level of risk-based capital adopted by the commissioner.

Requires an LPSLI company to immediately notify the commissioner of any action by a ceding insurer or any other person to foreclose on, or otherwise take possession of, collateral provided by the LPSLI company to secure an obligation.

Requires that an LPSLI company hold investments sums authorized in the Insurance Code that are at least equal to the sum of the minimum capital and surplus requirements; the risk-based capital requirements; and reserves calculated using generally accepted accounting principles.

Authorizes an LPSLI company to reduce the amount of the company's excess reserves on account of reinsurance a letter of credit, or guaranties from a holding company.

Authorizes an LPSLI company to hold guaranties from a holding company or an affiliated company as an admitted asset with an offsetting increase in special surplus fund to support excess reserves only.

Provides that an LPSLI company may only reinsure the risks of a ceding insurer under a reinsurance contract.

Prohibits an LPSLI company, unless otherwise approved by the commissioner, from assuming or retaining exposure to reinsurance losses for the company's own account that are not funded by premium and other amounts payable by the ceding insurer to the LPSLI company under the reinsurance contract or any return on the investment of the premiums or other amounts; letters of credit; or guaranties of a holding company or an affiliated company.

Allows an LPSLI company to cede risks assumed under a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the commissioner.

Allows an LPSLI company to enter into contracts and conduct other commercial activities related or incidental to, and necessary to fulfill the purposes of, a reinsurance contract.

Requires an LPSLI company to annually file an opinion of the appointed actuary acceptable to the commissioner concerning the methods and assumptions used to set reserves.

Authorizes the commissioner to reject the opinion of the appointed actuary if the commissioner determines that accepting the opinion would be hazardous to policyholders, enrollees, creditors, or the public.

Requires an LPSLI company to annually file a report of the LPSLI company's risk-based capital level as of the end of the preceding calendar year containing the information required by the risk-based capital instructions.

Provides that a guaranty may not be used to comply with Subchapter 1, Chapter 841, Insurance Code, without prior written approval of the commissioner.

Authorizes the commissioner to allow an affiliated company of the holding company to serve as guarantor.

Establishes that Subchapter I, Chapter 841, Insurance Code, is valid for business sold only until January 1 of the year in which principle-based reserve requirements become operative in Texas under the adoption of the National Association of Insurance Commissioners' 2009 amendments to the National Association of Insurance Commissioners Model Standard Valuation Law.

Requires that a senior actuarial officer of each ceding insurer file a certification that the ceding insurer's transactions with the LPSLI company are not being used to gain an unfair advantage in the pricing of the ceding insurer's products.

Provides that a ceding insurer may not be deemed to have an unfair advantage if the pricing of the policies and the contracts reinsured by the LPSLI company reflects a reasonable long-term estimate of the cost to the ceding insurer of an alternative third-party transaction, and uses current pricing assumptions and requires the ceding insurer to keep documentation between examinations that sets forth the manner in which a senior actuarial officer arrived at the conclusions in the certification.

Requires that the commissioner prescribe accounting and financial reporting requirements with regard to the LPSLI company and any insurer.

Surplus Lines Insurance Transactions—H.B. 3410

by Representative Smithee—Senate Sponsor: Senator Duncan

The Texas Administrative Code by rule defines the surplus lines agent of record as it applies to the responsible party for the payment of surplus lines taxes. Although the rule is clear in a transaction in which there is only one licensed surplus lines agent and an eligible surplus lines carrier, it does not address situations in which there are two licensed surplus lines agents. In recent surplus lines tax audits where all or part of the audited entities' operations were derived from their actions as an underwriting agent, the comptroller's field auditors have applied the definition of surplus lines agent of record to impose liability for the entire gross written surplus lines premium on the underwriting agent. The comptroller then billed the underwriting agent for taxes, penalties, and interest regarded as unpaid, even though the taxes were paid in the normal course of business by the licensed surplus lines producing agent-broker. This bill:

Requires that, notwithstanding any other law, a surplus lines agent who places an insurance policy with a managing underwriter, collect, report, and pay the surplus lines insurance premium tax.

Requires a managing underwriter with whom an insurance policy is placed to maintain appropriate records and make the records available for inspection by TDI and the comptroller.

Requires a managing underwriter who acts as a surplus lines agent for a policy issued by an eligible surplus lines insurer to maintain appropriate records and make the records available for inspection by TDI and the comptroller.

Requires that the records reflect the name and license number of the managing underwriter as the surplus lines agent placing the policy.

Authorizes a managing underwriter to hold both a surplus lines agent license and a managing general agent license.

Insurance Coverage for Certain Amusement Rides—H.B. 3570

by Representative Smithee—Senate Sponsor: Senator Carona

Amusement rides are currently required to be insured up to \$1,500,000 per occurrence. TDI determined that the insurance requirements also apply to other amusement rides, including rides that are known as bounce houses, which are rides that are mechanically inflated using a continuous airflow device and provide a surface or enclosed space for bouncing and jumping. This bill:

Applies only to a Class B amusement ride that is mechanically inflated using a continuous airflow device; and provides a surface for bouncing and jumping or creates an enclosed space for the purpose of amusement.

Prohibits a person from operating an amusement ride described by the above section unless the person has a combined single limit insurance policy currently in effect written by an insurance company authorized to conduct business in this state or by a surplus lines insurer, as defined by Chapter 981(Surplus Lines Insurance), Insurance Code, or has an independently procured policy subject to Chapter 101 (Unauthorized Insurance), Insurance Code, insuring the owner or operator against liability arising out of the use of the amusement ride in an amount of not less than \$1 million per occurrence.

Health Benefits for Postdoctoral Fellows and Graduate Students—S.B. 29

by Senator Zaffirini—House Sponsor: Representative Branch

Current health care plans offered by universities cannot be extended to graduate students who are awarded fellowships as they are not technically employees of the universities. Graduate students who are awarded fellowships must pay their own health insurance costs, while teaching or graduate assistants are provided health insurance as they are employees of the universities. This bill:

Provides that an individual is eligible to participate in the group benefits program if the individual, at an institution of higher education (IHE) holds a postdoctoral fellowship or one or more graduate student fellowships that are valued at not less than \$10,000 per year and is currently receiving a stipend from an applicable fellowship.

Requires an eligible individual to pay all contributions required for the coverage selected by the individual, except that an IHE is authorized to make contributions for the individual from available funds other than money appropriated to the institution from the general revenue fund.

Requires an IHE to determine which individuals are eligible to participate in the group benefits program and to notify each individual of the individual's eligibility to participate in the program.

Provides that an individual who participates in the group benefits program is not considered an employee of an IHE solely as a result of the individual's participation in the program.

Entitles an individual who is eligible to participate in the group benefits program to secure for a dependent of the individual group coverages as determined by the board of trustees of the Employees Retirement System of Texas (ERS board) and subject to exceptions.

Provides that an individual is eligible to participate in the uniform program if the individual, at an institution in a system, holds a postdoctoral fellowship or one or more graduate student fellowships that are valued at not less than \$10,000 per year and is currently receiving a stipend from an applicable fellowship.

Requires an eligible individual to participate in the uniform program to pay all contributions required for the coverage selected by the individual, except that an IHE may make contributions for the individual from available funds other than money appropriated to the institution from the general revenue fund.

Requires an IHE to determine which individuals are eligible to participate in the uniform program to notify each individual of the individual's eligibility to participate in the program.

Provides that an individual who participates in the uniform program is not considered an employee of an IHE solely as a result of the individual's participation in the program.

Entitles an individual who is eligible to participate in the uniform program to secure for a dependent of the individual group coverages for dependents under rules adopted by the applicable system.

Requires the ERS board to include coverage in an insurance policy or contract or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2012.

Authorizes the ERS board to include coverage in an insurance policy or contract or an evidence of coverage delivered, issued for delivery, or renewed before January 1, 2012, if the ERS board determines that the coverage may reasonably be included.

Requires the governing board of The University of Texas System or The Texas A&M University System (governing board) to include coverage in an insurance policy or contract or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2012.

Authorizes the governing board to include coverage in an insurance policy or contract or an evidence of coverage delivered, issued for delivery, or renewed before January 1, 2012, if the governing board determines that the coverage may reasonably be included.

Reinsurance Contracts for Title Insurance Policies—S.B. 322

by Senator Carona—House Sponsor: Representative Deshotel

Title reinsurance is a process whereby a title insurer is required to contract with other title insurers to cover the risk associated with a policy it sells. The lead insurer generally assumes the responsibility of obtaining reinsurance in accordance with policy guidelines negotiated between the insurer and the insured, and reinsurers may agree to accept varying levels of risk. Current law requires that TDI approve certain aspects of the purchase of title insurance when the reinsurer is eligible but has not been admitted to sell insurance in Texas. This process is infrequently used in practice because there are few desirable reinsurers not admitted in Texas. This bill:

Prohibits a title insurance company from insuring against loss or damage sustained by reason of any claim that under federal bankruptcy, state insolvency, or similar creditor's rights laws the transaction vesting title in the insured as shown in the policy or creating the lien of the insured mortgage is a preference or preferential transfer under 11 U.S.C. Section 547; a fraudulent transfer under 11 U.S.C. Section 548; a transfer that is fraudulent as to present and future creditors under Section 24.005 (Transfers Fraudulent as to Present and Future Creditors), Business & Commerce Code, or a similar law of another state; or a transfer that is fraudulent as to present creditors under Section 24.006 (Transfers Fraudulent as to Present Creditors), Business & Commerce Code, or a similar law of another state.

Authorizes the commissioner by rule to designate coverages that violate this bill.

Requires title insurance issued in or on a form prescribed by the commissioner to be considered to comply with this bill.

Provides that nothing in this bill prohibits title insurance with respect to liens, encumbrances, or other defects to title to land that appear in the public records before the date on which the contract of title insurance is made; occur or result from transactions before the transaction vesting title in the insured or creating the lien of the insured mortgage; or result from failure to timely perfect or record any instrument before the date on which the contract of title insurance is made.

Prohibits a title insurance company from engaging in the business of title insurance in this state if the title insurance company provides insurance of the type prohibited anywhere in the United States, except to the extent that the laws of another state require the title insurance company to provide that type of insurance.

Authorizes a title insurance company to reinsure any of its policies and contracts issued on real property located in this state or on policies and contracts issued in this state if the reinsuring title insurance company is authorized to engage in business in this state under this title; or the title insurance company acquires reinsurance in accordance with Section 2551.305 (Certain Reinsurance Allowed), Insurance Code.

Authorizes a title insurance company, notwithstanding any other provisions, to acquire reinsurance on an individual policy or facultative basis from a title insurance company not authorized to engage in the business of title insurance in this state if:

- the title insurance company from which the reinsurance is acquired has a combined capital and surplus of at least \$20 million as stated in the company's most recent annual statement preceding the acceptance of reinsurance; and is domiciled in another state and is authorized to engage in the business of title insurance in one or more states; and
- the title insurance company acquiring reinsurance gives written notice to TDI at least 30 days before acquiring the reinsurance, and the commissioner does not, before the expiration of the 30-day period and on the ground that the transaction may result in a hazardous financial condition, prohibit the title insurance company from obtaining reinsurance.

Requires the notice required to provide sufficient information to enable the commissioner to evaluate the proposed transaction, including a summary of the significant terms of the reinsurance, the financial impact of the transaction on the title insurance company acquiring reinsurance, and the specific identity and state of domicile of each title insurance company from which reinsurance is acquired.

Authorizes TDI, notwithstanding any other provision, to, on application and hearing, permit a title insurance company to acquire reinsurance that does not comply with provisions of this bill on an individual policy or facultative basis from a title insurance company domiciled in another state and not authorized to engage in the business of title insurance in this state, if:

- the company has exhausted the opportunity to acquire reinsurance from all other authorized title insurance companies; and
- the title insurance company from which the reinsurance is acquired has a combined capital and surplus of at least \$2 million as stated in its annual statement preceding the acceptance of reinsurance.

Repeals Section 2551.303 (Form of Reinsurance Contract), Insurance Code.

Liability of Mortgage Guaranty Insurers—S.B. 416

by Senator Deuell—House Sponsor: Representative Smithee

Mortgage guaranty insurance protects lenders from loss due to default on mortgages where the down payment is less than the customary 20 percent. Mortgage guaranty insurance encourages home ownership, and mortgage guaranty insurers have insured approximately 800,000 mortgages in Texas. In Texas and 15 other states, the law imposes a risk limit of 25 times the capital of the insurer, or a 25:1 risk-to-capital ratio. If a mortgage guaranty insurer reaches this limit, the insurer must stop insuring new mortgages. With the economic downturn, and the resulting increase in foreclosures and defaults, the underwriting results for these companies is deteriorating and some companies may reach the 25:1 ratio and that it is important to keep this coverage available to lenders so mortgages will remain available in the market. This bill:

Authorizes the commissioner to waive the limit at the written request of a mortgage guaranty insurer on a finding by the commissioner that the sum of the insurer's capital, surplus, and contingency reserve is reasonable in relationship to the insurer's aggregate insured risk and adequate to the insurer's financial needs.

Requires that the request be made in writing on or before the 90th day before the date the insurer expects to exceed the limit and requires that, at a minimum, the request address certain factors.

Authorizes the commissioner, in the commissioner's sole discretion, in determining whether a mortgage guaranty insurer's capital, surplus, and contingency reserve is reasonable in relation to the insurer's aggregate insured risk and adequate to the insurer's financial needs, to consider relevant factors including:

- the insurer's size as measured by the insurer's assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;
- the extent to which the insurer's business is diversified across time, geography, credit quality, origination, and distribution channels;
- the nature and extent of the insurer's reinsurance program;
- the quality, diversification, and liquidity of the insurer's investment portfolio;
- the historical and forecasted trend in the size of the insurer's capital, surplus, and contingency reserve;
- the capital, surplus, and contingency reserve maintained by other comparable mortgage guaranty insurers in relation to the nature of the insurers' respective insured risks;
- the reasonableness of the insurer's reserves;
- the quality and liquidity of the insurer's investments in affiliates; and
- the quality of the insurer's earnings and the extent to which the insurer's reported earnings include extraordinary items.

Authorizes the commissioner, with respect to the factors listed above, to treat an investment in an affiliate as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders.

Authorizes the commissioner to retain accountants, actuaries, or other experts to assist the commissioner in the review of a request made by a mortgage guaranty insurer.

Requires that a waiver granted be for a specified period that does not exceed two years and is subject to any terms and conditions the commissioner considers best suited to restoring the mortgage guaranty insurer's capital, surplus, and contingency reserve to the required level.

Prohibits the commissioner under any circumstances from allowing the mortgage guaranty insurer to have outstanding under the insurer's aggregate mortgage guaranty insurance policies a total liability, net of reinsurance, that exceeds the sum of the insurer's capital, surplus, and contingency reserve, multiplied by 50.

Prohibits an insurer from being allowed a waiver under provisions of this bill for a continuous period of more than six years.

Benefits for Survivors of Public Servants Killed in the Line of Duty—S.B. 423

by Senator Lucio et al.—House Sponsor: Representative Menendez

In 1993, the Texas Legislature enacted legislation to allow the surviving family members of law enforcement officers and firefighters killed in the line of duty to continue to purchase health insurance from the government entity that employed the deceased and at the same rate that the employee was paying for the insurance.

In 2009, the legislature enacted legislation which sought to clarify the intent of the statute and ensure that the surviving families of public servants killed in the line of duty are covered. This legislation removed the requirement that a survivor forfeit his or her insurance coverage if the survivor were eligible for insurance through another employer. The intent of this provision was to allow the spouse to maintain coverage for himself or herself and his or her children through the public servant's plan, regardless of the survivor's employment status. This bill:

Requires the individual's employer, as soon as practicable after the death of an individual, to furnish to the board of trustees of the Employees Retirement System of Texas (ERS) proof of the death in the form and with additional evidence and information required by the board.

Allows an eligible survivor of an individual whose claim was denied or who otherwise did not receive payment on a claim because the individual's employer did not timely furnish proof of the individual's death to the ERS board of trustees, to furnish the proof of death and file a claim not later than September 30, 2011, and provides that the eligible survivor is entitled to receive the payment that would have been received had proof of death been timely furnished.

Establishes that the provisions of this legislation apply to an individual who is employed by the state or a political subdivision of the state and who is considered to be a trainee for a position.

Provides that a survivor of an individual who would have been eligible for health insurance benefits during the life of the individual may not be denied health insurance benefits on the ground that the survivor was enrolled in group health insurance with another employer as of the date of the individual's death.

Entitles an eligible surviving spouse of a deceased individual who was employed by the state to purchase or continue to purchase health insurance benefits.

Entitles an eligible surviving spouse of a deceased individual who was employed by a political subdivision of the state to purchase or continue to purchase health insurance benefits from the political subdivision that employed the deceased individual, including health coverage.

Entitles an eligible surviving spouse to purchase or continue to purchase health insurance coverage until the date the surviving spouse becomes eligible for federal Medicare benefits.

Entitles an eligible surviving dependent who is a minor child to purchase or continue to purchase health insurance coverage until the date the dependent reaches the age of 18 or a later date to the extent required by state or federal law.

Entitles an eligible surviving dependent who is not a minor child to purchase or continue to purchase health insurance coverage until the earlier of the date the dependent becomes eligible for group health insurance through another employer or the date the dependent becomes eligible for federal Medicare benefits.

Provides that an eligible survivor may elect to purchase or continue to purchase coverage at any level of benefits currently offered by the employer to dependents of an active employee or may elect to purchase or continue to purchase coverage at a reduced level of benefits if the employer offers that option.

Establishes that the provisions of this legislation apply only to the eligible survivor of an individual who died on or after September 1, 1993.

Allows an eligible survivor who did not purchase or receive health insurance coverage or benefits on or before the date of the individual's death, or who did not notify the individual's employer of the survivor's election to purchase or continue to purchase coverage within the time allowed by law after the individual's death, to apply for health insurance benefits or coverage not later than September 1, 2012, and to purchase coverage according to the same rate schedule and coverage options that would apply if the eligible survivor had continued to purchase coverage after the individual's death.

Property and Casualty Certificates of Insurance—S.B. 425

by Senators Carona and Hegar—House Sponsor: Representative Hancock

Certificates of insurance are used to provide evidence of policy information that is commonly used for commercial closings. Certificates include information about the effective date of the policy, what is covered under the policy, and the policy's coverage limits. In current practice, insurance agents complete certificates of insurance even though agents are not usually coverage experts. Completing a certificate of insurance often requires the agent to interpret policy terms and coverage with which the agent may be unfamiliar. This may result in incorrect interpretations of policy terms, which can later result in disputes over those terms and coverages. Under current law, TDI does not approve or disapprove certificate of insurance forms. This bill:

Adds Chapter 1811 (Certificates of Property and Casualty Insurance), Insurance Code.

Provides that Chapter 1811 applies to a certificate holder, policyholder, insurer, or agent with regard to a certificate of insurance issued on property or casualty operations or a risk located in this state, regardless of where the certificate holder, policyholder, insurer, or agent is located.

Prohibits Chapter 1811 from being construed to apply to:

- a statement, summary, or evidence of property insurance required by a lender in a lending transaction involving a mortgage, a lien, a deed of trust, or any other security interest in real or personal property as security for a loan;
- a certificate issued under a group or individual policy for life insurance, credit insurance, accident and health insurance, long-term care benefit insurance, or Medicare supplement insurance; or an annuity contract; or
- standard proof of motor vehicle liability insurance under Section 601.081 (Standard Proof of Motor Vehicle Liability Insurance Form), Transportation Code.

Authorizes the commissioner to adopt rules as necessary or proper to accomplish the purposes of Chapter 1811.

Authorizes TDI to collect a fee in an amount determined by the commissioner for the filing of a new or amended certificate of insurance form and requires that the fee collected to be deposited to the credit of TDI operating account.

Prohibits a property or casualty insurer or agent from issuing a certificate of insurance or any other type of document purporting to be a certificate of insurance if the certificate or document alters, amends, or extends the coverage or terms and conditions provided by the insurance policy referenced on the certificate or document.

Prohibits a certificate of insurance or any other type of document from conveying a contractual right to a certificate holder.

Prohibits an insurer or an agent from issuing a certificate of insurance unless the form of the certificate has been filed with and approved by TDI or is a standard form deemed approved by TDI.

Prohibits a person from:

- executing, issuing, or requiring the issuance of a certificate of insurance for risks located in this state, unless the certificate of insurance form has been filed with and approved by TDI;
- altering or modifying an approved certificate of insurance form unless the alteration or modification is approved by TDI;
- requiring the issuance of a certificate of insurance from an insurer, agent, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate refers; and
- requiring an agent or insurer, either in addition to or in lieu of a certificate of insurance, to issue any other document or correspondence, instrument, or record, including an electronic record, that is inconsistent with Chapter 1811.

Requires a person who receives written notice that a certificate of insurance form filed under Chapter 1811 has been disapproved by the commissioner to immediately stop using the form.

Prohibits an insurer or agent from delivering or issuing for delivery in this state a certificate of insurance unless the certificate's form has been filed with and approved by the commissioner and contains the phrase "for information purposes only" or similar language.

Authorizes the commissioner, if a certificate of insurance form does not contain the required language, to approve the form if the form states that the certificate of insurance does not confer any rights or obligations other than the rights and obligations conveyed by the policy referenced on the form, and that the terms of the policy control over the terms of the certificate of insurance.

Prohibits a person from using a form unless the form has been filed with and approved by the commissioner.

Sets forth requirements for the disapproval of a form by the commissioner.

Provides that a standard certificate of insurance form promulgated by the Association for Cooperative Operations Research and Development, the American Association of Insurance Services, or the Insurance Services Office (ISO) is deemed approved on the date the form is filed with TDI.

Provides that a certificate of insurance form that has been approved by the commissioner and properly executed and issued by a property and casualty insurer or an agent constitutes a confirmation that the referenced insurance policy has been issued or that coverage has been bound.

Provides that a certificate of insurance is not a policy of insurance and does not amend, extend, or alter the coverage afforded by the referenced insurance policy.

Prohibits a certificate of insurance from conferring to a certificate holder new or additional rights beyond what the referenced policy or any executed endorsement of insurance provides and from containing a reference to a legal or insurance requirement contained in a contract other than the underlying contract of insurance, including a contract for construction or services.

Provides that a person may have a legal right to notice of cancellation, nonrenewal, or material change or any similar notice concerning a policy of insurance only if the person is named within the policy or an endorsement to the policy, and the policy or endorsement or a law, including a rule, of this state requires notice to be provided.

Provides that a certificate of insurance that is executed, issued, or required and that is in violation of Chapter 1811 is void and has no effect.

Authorizes the commissioner, if the commissioner has reason to believe that an insurer or agent has violated or is threatening to violate Chapter 1811 or a rule adopted under Chapter 1811, to issue a cease and desist order; seek an injunction; request that the attorney general recover a civil penalty; impose sanctions on the insurer or agent; or take any combination of those actions.

Authorizes the commissioner to hold a hearing on whether to issue a cease and desist order if the commissioner has reason to believe that an insurer or agent has violated or is threatening to violate Chapter 1811 or a rule adopted under Chapter 1811; or an insurer or agent has engaged in or is threatening to engage in an unfair act related to a certificate of insurance.

Provides that a person, including an insurer or agent, who wilfully violates Chapter 1811 is subject to a civil penalty of not more than \$1,000 for each violation.

Authorizes the commissioner to request that the attorney general institute a civil suit in a district court in Travis County for injunctive relief to restrain a person, including an insurer or agent, from continuing a violation or threat of violation.

Authorizes the commissioner to investigate a complaint or allegation of specific violations by a person, including an insurer or agent, who has allegedly engaged in an act or prohibited practice and to enforce the provisions of Chapter 1811.

Contracts Between Dentists and HMOs or Insurers—S.B. 554

by Senator Carona et al.—House Sponsor: Representative Lozano

Current law allows for dental insurance carriers to implement contract provisions that set a limit on the amount contracting dentists can charge an insured patient for services not covered by the plan. A non-covered service is considered to be any service for which the third-party contract provides either no benefit or no reimbursement, including services that exceed the annual or lifetime maximums and services provided during waiting periods. When a contracting dentist treats a patient for procedures that either are not covered by the plan contract or not covered because the patient has exhausted the patient's annual maximum, the participating dentist can bill the patient at the usual and customary fee. Insurance companies are now trying to set limits on what dentists may charge for services not covered under the plan contract. This bill:

Adds Section 843.3115 (Contracts with Dentists) to Chapter 843 (Health Maintenance Organizations) of the Insurance Code.

Defines "covered service" as a dental care service for which reimbursement is available under an enrollee's health care plan contract, or for which reimbursement is available subject to a contractual limitation, including a deductible, a copayment, coinsurance, a waiting period, an annual or lifetime maximum limit, a frequency limitation, or an alternative benefit payment.

Provides that a contract between an HMO and a dentist may not limit the fee the dentist may charge for a service that is not a covered service.

Adds Section 1451.2065 (Contracts with Dentists) to Chapter 1451 (Access to Certain Practitioners and Facilities) of the Insurance Code with language identical to Section 843.3115.

Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association—S.B. 567

by Senator Williams—House Sponsor: Representative Hancock

The Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association provides coverage for policy benefits of Texas resident policy holders, subject to certain limits, in the event of an insolvency of a member insurance company. Participation in the association is mandatory for insurers licensed to write life, accident, health, and annuity contracts in Texas. This bill:

Renames the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association the Texas Life and Health Insurance Guaranty Association (TLHIGA).

Authorizes the TLHIGA board or a committee of the board to meet by telephone conference call, videoconference, or other similar telecommunication method if immediate action is required and convening a quorum of the board or committee of the board at a single location is not reasonable or practical.

Establishes that the meeting is subject to the notice requirements that apply to other meetings.

Provides that the notice of the meeting must specify that the location of the meeting is the location at which meetings of the board and committees of the board are usually held.

Requires that each part of the meeting that must be open to the public be audible to the public at the specified location.

Requires that two-way audio be available during the entire meeting between all members of the board or committee attending a meeting and provides that if the two-way audio communication is disrupted, the meeting may not continue until the two-way audio communication is reestablished.

Requires that an audio or digital recording of the meeting be made in accordance with TLHIGA's bylaws and must be made available to the public.

Requires that a vote during the meeting be taken in such a manner that the vote of each member is audible and may be verified as the vote of the member.

Establishes that TLHIGA does not provide coverage for a policy or contract providing a hospital, medical, prescription drug, or other health care benefit under Medicare Parts C and D or a regulation adopted under those federal statutes.

Provides that a contractual obligation does not include an amount in excess of \$250,000, rather than \$100,000, in the present value under one or more annuity contracts issued with respect to a single life under individual annuity policies or group annuity policies.

Provides that TLHIGA may elect to succeed to the rights of an insolvent insurer under a contract of reinsurance to which the insolvent insurer is a party to the extent of the contractual obligations of the covered policies for which TLHIGA may become obligated and that the reinsurance contract provides coverage for losses occurring after TLHIGA is obligated to provide coverage.

Requires TLHIGA, as a condition of electing to succeed to the rights of an insolvent insurer, to pay all unpaid premiums due under the reinsurance contract for coverage relating to a period before and after the date TLHIGA is obligated to provide coverage.

Prepaid Funeral Benefits Contracts—S.B. 579

by Senator Hegar—House Sponsor: Representative Hancock

Currently, a person is authorized to enter into a prepaid funeral benefits contract, which is an insurance contract, intended to allow a person to make many of the difficult decisions involved in funeral planning in advance. However, many families select funeral merchandise and services that exceed the amount currently allowed by law and legislation is needed to give customers more flexibility to acquire insurance in the amount they need to cover all their funeral costs. This bill:

Prohibits, except as provided by Section 154.2021 (Requirements for Insurance Policies), Finance Code, a funeral prearrangement life insurance agent from writing any coverage or combination of coverages with an initial guaranteed death benefit on any life that exceeds the total cost of the prepaid funeral benefits purchased under the prepaid funeral contract, rather than prohibits a funeral prearrangement life insurance agent licensed from writing any coverage or combination of coverages with an initial guaranteed death benefit that exceeds \$15,000 on any life.

Extra Hazardous Coverages by Title Insurance Companies—S.B. 735

by Senator Carona—House Sponsor: Representative Smithee

A title underwriter provides creditor's rights coverage when it covers risk that is not related to a title issue, but related to a creditor's security interest in collateral. Such a title policy insures that certain financial transactions related to a piece of real property were performed legitimately. TDI currently prohibits by rule the inclusion of a creditor's rights provision in a title insurance policy. There is concern within the title insurance industry that when the Texas economy fully recovers from the recent recession, there will be a push to allow creditor's rights coverage in Texas as is currently allowed in a few other states. Because title insurance is a highly regulated industry, title companies are limited in their competitive advantages, and if one company were to offer this product, the market would effectively necessitate the entire industry to offer the product. This bill:

Prohibits a title insurance company from insuring against loss or damage sustained by reason of any claim that under federal bankruptcy, state insolvency, or similar creditor's rights laws the transaction vesting title in the insured as shown in the policy or creating the lien of the insured mortgage is:

- a preference or preferential transfer under 11 U.S.C. Section 547;
- a fraudulent transfer under 11 U.S.C. Section 548;
- a transfer that is fraudulent as to present and future creditors under Section 24.005 (Transfers Fraudulent as to Present and Future Creditors), Business & Commerce Code, or a similar law of another state; or
- a transfer that is fraudulent as to present creditors under Section 24.006 (Transfers Fraudulent as to Present Creditors), Business & Commerce Code, or a similar law of another state.

Authorizes the commissioner to by rule designate coverages that violate this bill.

Requires that title insurance issued in or on a form prescribed by the commissioner be considered to comply with provisions of this bill.

Provides that nothing in this bill prohibits title insurance with respect to liens, encumbrances, or other defects to title to land that appear in the public records before the date on which the contract of title insurance is made; occur or result from transactions before the transaction vesting title in the insured or creating the lien of the insured mortgage; or result from failure to timely perfect or record any instrument before the date on which the contract of title insurance is made.

Prohibits a title insurance company from engaging in the business of title insurance in this state if the title insurance company provides insurance of the type prohibited anywhere in the United States, except to the extent that the laws of another state require the title insurance company to provide that type of insurance.

Employer Health Group Cooperatives and Employer Contributions—S.B. 859

by Senator Duncan et al.—House Sponsor: Representative Smithee

The Texas Legislature has enacted legislation allowing employers to form cooperatives for the purchase of employer health benefit plans in Texas. All three types of cooperatives are private purchasing cooperatives. This bill:

Defines an "eligible single-employee business" as a business entity that is owned and operated by a sole proprietor; employed an average of fewer than two employees on business days during the preceding calendar year; and is eligible to participate in a cooperative.

Requires that a health group cooperative (HGC) arrange for small or large employer health benefit plan coverage for small employer groups, large employer groups, and eligible single-employee businesses (SEBs) that participate in the HGC by contracting with small or large employer health benefit plan issuers.

Provides that the membership of a HGC may consist of only small employers; only large employers; both small and large employers; small employers and eligible SEBs; large employers and eligible single-employee businesses; or small employers, large employers, and eligible SEBs.

Provides that to participate as a member of an HGC, an employer must be a small or large employer or an eligible SEB.

Requires that an HGC allow a small employer to join an HGC, other than an HGC consisting of only large employers, and enroll in health benefit plan coverage and may allow eligible SEBs to join an HGC and enroll in health benefit plan coverage.

Provides that an HGC may offer more than one health benefit plan, but requires that each plan offered be available to all employers participating in the HGC.

Authorizes an HGC to file an election with the commissioner of insurance (commissioner) to permit eligible SEBs to join the HGC and to enroll in health benefit plan coverage and establishes that the election must be filed not later than the 90th day before the date coverage for eligible SEBs is to become effective.

Authorizes an HGC to file an election only if a small or large employer health benefit plan issuer has agreed in writing to offer to issue coverage to the HGC based on its membership after the election to permit eligible SEBs to participate in the HGC has become effective.

Provides that on the date an election becomes effective and until the election is rescinded, the provisions relating to guaranteed issuance of plans, to rating requirements, and to mandated benefits that are applicable to small employers apply to eligible SEBs that are members of the HGC.

Provides that an HGC that files an election with the commissioner to permit an eligible SEB to join the HGC and enroll in health benefit plan coverage must permit participation and enrollment in the HGC's health benefit plan coverage during the initial enrollment and annual open enrollment periods by each eligible SEB that elects to participate and agrees to satisfy requirements associated with participation in and coverage through the cooperative.

Authorizes an HGC to rescind its election to permit eligible SEBs to join HGC and enroll in health benefit plan coverage only if the election has been effective for at least two years; the HGC files notice of the rescission with the commissioner not later than the 180th day before the effective date of the rescission; and the HGC provides written notice of termination of coverage to all eligible SEB members of HGC not later than the 180th day before the effective date of the termination.

Requires the commissioner to adopt rules under which an HGC may for good cause rescind an election described before the second anniversary of the effective date of the election.

Provides that an HGC that files notice of rescission may choose to permit existing eligible SEBs to remain active, covered members of the cooperative, but only if all such members of the HGC are provided the same opportunity.

Provides that an HGC that has rescinded an election may not file a subsequent election to permit eligible SEBs to join the HGC and enroll in health benefit plan coverage before the fifth anniversary of the effective date of the rescission.

Provides that an HGC may file an election to treat each participating employer within the HGC as a separate employer for purposes of rating small and large employer health benefit plans.

Requires an existing HGC to file the election with TDI not later than the 90th day before the date on which the election is to become effective.

Requires an HGC to provide to all participating and prospective employers a written notice of the HGC's election to treat participating employers within the HGC as separate employers for purposes of rating small and large employer health benefit plans.

Requires employers participating in the HGC when such an election is made to be provided notice of the election not later than the 90th day before the date the election is to become effective.

Establishes that an election is effective on the earliest date after the election is made on which the plan to which the election applies is initially issued or renewed and remains in effect for not less than 12 months after the effective date.

Requires the commissioner to adopt rules governing the eligibility of a SEB to participate in an HGC and provides that the rules must include provisions to ensure that each eligible SEB has a business purpose and was not formed solely to obtain health benefit plan coverage.

Authorizes the commissioner, unless it would violate state or federal law, to develop procedures to allow an employer to make financial contributions to or premium payments for an employee or retiree's individual consumer directed health insurance policy in a manner that eliminates or minimizes the state or federal tax consequences, or provides positive state or federal tax consequences, to the employer.

Immunity for Reporting Insurance Fraud—S.B. 918

by Senator Wentworth—House Sponsor: Representative Thompson

Insurers are required to report suspected, anticipated, or completed fraudulent insurance acts to the fraud unit within TDI or another authorized government agency. Insurers who are members of an organization, such as the National Insurance Crime Bureau (NICB), that are primarily dedicated to the detection, investigation, and prosecution of insurance fraud can report fraudulent insurance acts to the organization. Insurers who comply with statute and report insurance fraud to certain entities have limited immunity from libel or slander in a civil action resulting from the report. Organizations such as NICB are not included in the list of entities through which a Texas insurer may report and receive limited immunity. This bill:

Provides that a person is not liable in a civil action, including an action for libel or slander, and prohibits a civil action from being brought against the person, for furnishing information relating to a suspected, anticipated, or completed fraudulent insurance act if the information is provided to certain entities, including an organization primarily dedicated to the detection, investigation, and prosecution of insurance fraud, if the person is a member of the organization and, either, the person has reported the information as required by statute, or the organization has reported the information to the insurance fraud unit as required on behalf of the person and in a manner that fully complies with the person's obligations.

Insurance Holding Company Systems—S.B. 1431

by Senator Carona—House Sponsor: Representative Smithee

Insurance companies and health maintenance organizations are currently subject to the Texas Insurance Holding Company Systems Act, which is codified as Chapter 823 (Insurance Holding Company Systems), Insurance Code. Requirements in Texas are substantially similar to model legislation developed by the National Association of Insurance Commissioners (NAIC). NAIC recently updated the model legislation in response to lessons learned from the nation's financial crisis and to address the needs of insurance regulators to be able to assess the enterprise risk within a holding company system and its potential impact on the solvency of an insurer. The updated model legislation does not expand the reach of regulatory authority to include entities that are currently exempt from regulation under the Insurance Code. This bill:

Requires that the disclaimer of affiliation (disclaimer), except as provided by this bill, be deemed to have been allowed unless, not later than 60 days after the receipt of a complete disclaimer, the commissioner notifies the filing party that the disclaimer is disallowed.

Authorized the commissioner, if the commissioner at any time determines that the information disclosed in the disclaimer is incomplete or inaccurate or is no longer accurate, to disallow the disclaimer.

Authorizes the party who filed the disclaimer to request an administrative hearing if the commissioner disallows a disclaimer.

Provides that, except as provided by this bill, if the commissioner allows a disclaimer, the insurer is not required to register or report due to a duty arising from the insurer's relationship with the party who filed the disclaimer; and the party who filed the disclaimer is not required to comply with certain sections of Chapter 823, Insurance Code.

Authorizes the commissioner, if the commissioner allows a disclaimer, at the same time to also waive another provision of Chapter 823 with relation to the party who filed the disclaimer.

Requires the insurer to register and report, if the commissioner disallows a disclaimer, effective on the date of the disallowance; and requires the party who filed the disclaimer to comply with certain sections of Chapter 823, Insurance Code.

Authorizes the commissioner or another person, if the recipient of documents or other information agrees in writing to maintain the confidential and privileged status of the documents or other information, and verifies in writing the legal authority to maintain the confidential and privileged status of the documents or information, to disclose the information to certain entities functioning in an official capacity, including members of a supervisory college or NAIC and its affiliates and subsidiaries.

Requires the commissioner to enter into written agreements with NAIC that comply with the requirements of this bill regarding the sharing and use of information and requires that such an agreement specify certain information.

Authorizes the commissioner, with respect to any insurer registered, and in accordance with statute, to participate in a supervisory college for a domestic insurer that is part of an insurance holding company system with international operations in order to determine the insurer's compliance with Chapter 823.

Authorizes the commissioner to initiate the establishment of a supervisory college; clarify the membership and participation of other entities in the supervisory college; clarify the functions of the supervisory college and the role of other entities in the supervisory college; establish a group-wide supervisor; coordinate the ongoing activities of the supervisory college, including meetings, regulatory activities, and processes for information sharing; and establish a crisis management plan.

Requires a registration statement to be in a format prescribed by NAIC or adopted by rule of the commissioner and contain current information, including information about the corporate governance and internal control responsibilities of the insurer's board of directors, including a statement that the insurer's senior management or officers have approved and implemented, and continue to maintain and monitor, corporate governance and internal control procedures and the insurer's board of directors oversees corporate governance and internal controls; and any other information that the commissioner requires by rule.

Requires an insurer, on request of the commissioner, to include with the registration statement a copy of all financial statements for the insurance holding company system and all affiliates of the holding company system, including annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.).

Prohibits an insurer from being required to submit financial statements for an affiliate that is privately owned by not more than five security holders, each of whom is an individual, unless the commissioner determines that the operations of the affiliate may materially affect the operations, management, or financial condition of an insurer in a holding company system.

Requires the ultimate controlling person of each insurer required to file an annual registration to file with the registration an annual enterprise risk report.

Sets forth deadlines for the ultimate controlling person of an insurer to file the first enterprise risk report.

Provides that the ultimate controlling person of an insurer with total direct or assumed annual premiums of less than \$300 million is not required to submit an enterprise risk report.

Requires the ultimate controlling person of an insurer that is not in compliance with applicable risk-based capital standards or that is otherwise in hazardous condition, as determined by the commissioner, regardless of total direct or assumed annual premium, to file an enterprise risk report as directed by the commissioner.

Authorizes an insurer or health maintenance organization that in the preceding calendar year had direct written and assumed premiums of more than \$300 million but less than \$500 million to request an exemption from certain reporting requirements by filing with the commissioner a written statement describing the undue financial or organizational hardship the insurer or health maintenance organization would suffer as a result of complying the reporting requirements.

Provides that the ultimate controlling person of an insurance holding company system is not required to submit an enterprise risk report under certain conditions.

Requires an agreement, including an agreement for cost-sharing, services, or management, to include all provisions required by rule of the commissioner.

Requires that certain notices required by Chapter 823 include the reasons for entering into or changing the transaction and the financial impact of the transaction on the domestic insurer.

Requires the domestic insurer to give notice of the termination to the commissioner not later than the 30th day after the termination of a previously filed agreement.

Authorizes a domestic insurer, before a person who directly or indirectly controls or after the acquisition would directly or indirectly control, to in any manner acquire a voting security of a domestic insurer; or before a person may otherwise acquire control of a domestic insurer or exercise any control over a domestic insurer, or before a person may initiate a divestiture of control of a domestic insurer:

- requires the acquiring person to file with the commissioner a statement that satisfies the requirements relating to the acquisition statement;
- requires that the acquisition or divestiture of control be approved by the commissioner; and
- requires the divesting person, if the person is initiating a divestiture of control, to file with the commissioner a notice of divestiture on a form adopted by NAIC or adopted by the commissioner by rule.

Requires the commissioner to approve or deny an acquisition, change, or divestiture of control for which a statement or notice is filed not later than the 60th day after the date the statement is filed.

Requires the commissioner, in considering whether to approve or deny, to consider whether, among other things, the divestiture of control may jeopardize the financial stability of the domestic insurer or prejudice the interest of the domestic insurer's policyholders and other claimants.

Authorizes the commissioner, if a proposed acquisition, change, or divestiture of control will require the approval of more than one commissioner, to participate in a public hearing held on a consolidated basis on request of the person filing the statement.

Requires the acquiring person to agree to provide the annual enterprise risk report for as long as the acquiring person maintains control of the insurer.

Requires the acquiring person and all subsidiaries within the acquiring person's control in the insurance holding company system to provide information to the commissioner on request of the commissioner as the commissioner deems necessary to evaluate enterprise risk to the insurer.

Authorizes the commissioner to order a registered insurer to produce records, books, or other information papers in the possession of the insurer or an affiliate of the insurer that are necessary to ascertain the financial condition or legality of conduct of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

Authorizes the commissioner, to determine compliance with Chapter 823, to order any insurer to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations, or other methods.

Authorizes the commissioner to issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with provisions of this bill.

Authorizes a violation to serve as an independent basis for disapproving dividends or distributions and for issuing an order under Chapter 404 (Financial Condition) or Chapter 441 (Supervision and Conservatorship, Insurance Code, if the commissioner determines that a person has committed a violation of Subchapter D (Control of Domestic Insurer; Acquisition or Merger), Chapter 823, that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system.

Insurer Receivership—S.B. 1433

by Senator Carona—House Sponsor: Representative Smithee

The Insurer Receivership Act (Act) was enacted as Chapter 443, Insurance Code, in 2005 to provide for insurance receiverships. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203 (Dodd-Frank), grants additional authority to the federal government to liquidate financial companies under certain circumstances and provides that if an insurance company is determined to pose a systemic risk to the economy, it may be rehabilitated or liquidated pursuant to state law. If the state insurance regulator does not file an action within 60 days, the Federal Deposit Insurance Corporation has authority to initiate an action under state law in the place of the state regulator. This bill:

Prohibits a delinquency proceeding, except as authorized by Dodd-Frank, from being commenced under the Act by a person other than the commissioner, and provides that a court does not have jurisdiction to entertain, hear, or determine any delinquency proceeding commenced by any other person.

Authorizes a party in arbitration to bring a claim or counterclaim against the estate, but provides that the claim or counterclaim is subject to the Act.

Authorizes the receiver, in the event of an emergency, to appoint a special deputy without soliciting competitive bids.

Provides that an emergency exists if a court has made a determination described by certain sections of Dodd-Frank; or the receiver concludes that the competitive bidding process would delay the appointment of a special deputy and that the delay could be hazardous to the insurer's policyholders or creditors or the general public.

Requires that any formal delinquency proceeding against a person, except as authorized by Dodd-Frank, be commenced by filing a petition in the name of the commissioner or TDI.

Authorizes a petition with respect to an insurer domiciled in this state or an unauthorized insurer for an order of rehabilitation or liquidation to be filed on any one or more of certain grounds, including that a court has made a determination described by Dodd-Frank.

Authorizes the rehabilitator to exercise all powers possessed on August 31, 2005, by a receiver appointed for the purpose of rehabilitating an insurer, or conferred on a rehabilitator after that date by the laws of this state that are not inconsistent with the Act.

Provides that Class 2 includes claims for benefits under a health care plan issued by a maintenance organization, and claims under insurance policies or contracts for benefits issued by an unauthorized insurer.

Filing of a Surplus Lines Policy—S.B. 1806

by Senator Lucio—House Representative Sid Miller

Current law sets a 60-day deadline for agents to file a surplus line insurance policy with the Surplus Lines Stamping Office of Texas (stamping office). A policy may be filed electronically on a form approved by the Stamping Office and TDI. If a surplus lines policy is not correctly and completely filed with the stamping office by the 60-day deadline, it is a late-filed policy and a violation of the Insurance Code. This filing requirement is unique to the surplus lines insurance market, but Chapter 981 (Surplus Lines Insurance) does not provide a similarly unique sanction provision for failure to comply with the filing deadline. This bill:

Authorizes the commissioner to assess a fee against an agent who files a surplus lines policy after the filing deadline.

Provides that for an agent who files a surplus lines policy on or before the 180th day after the effective date or issue date, the amount of the fee is:

- \$50 for each late-filed policy if, in the calendar year immediately preceding the year in which the policy is late-filed, the agent has filed not more than five percent of the policies the agent was required to file after the filing deadline; or
- \$100 for each late-filed policy if, in the calendar year immediately preceding the year in which the policy is late-filed, the agent has filed more than five percent of the policies the agent was required to file after the filing deadline.

Provides that for an agent who files a surplus lines policy after the 180th day but before the 365th day after the effective date or issue date and who, during the immediately preceding calendar year, filed not more than two percent of the policies the agent was required to file after the filing deadline, the amount of the fee for the late-filed policy is \$200.

Provides that notwithstanding any other provision, for an agent who not later than January 1, 2012, files a late-filed policy with an effective date before January 1, 2010, that, at the time the policy is filed, has not been listed in a previous late-filed policy report of the stamping office, the amount of the fee is \$50 for each late-filed policy.

Provides that the assessment, imposition, or payment of a fee does not establish a violation for purposes of Section 81.004 (Report to Attorney General), 82.051 (Cancellation or Revocation of Authorization), 82.052 (Other Sanctions), 82.054 (Cancellation on Failure to Comply), 82.056 (Notice to Other States), or 84.022(b)(3) (relating to the history of previous violations), Insurance Code.

Provides that an agent who files a surplus lines policy after the filing deadline is subject to Chapters 81 (General Provisions Regarding Discipline and Enforcement), 82 (Sanctions), and 84 (Administrative Penalties), Insurance Code, only if the agent fails to timely pay an assessed fee; files a surplus lines policy on or after the 365th day after the effective date or issue date; or files a surplus lines policy after the 180th day but before the 365th day of the effective date or issue date, and in the calendar year immediately preceding the year in which the policy is late-filed, filed more than two percent of the policies the agent was required to file after the filing deadline.

Requires TDI to provide notice to the agent of the amount of fees assessed during each calendar year not later than June 15 of the year immediately following the year for which fees are assessed, and each agent to pay the assessed fees not later than the 30th day after the date of the notice.

Fines and Costs in Misdemeanor Cases—H.B. 27

by Representative Guillen—Senate Sponsor: Senator Ellis

Payment of court fines and costs in misdemeanor cases can be difficult for indigent or low-income individuals or families. This bill:

Authorizes a court to allow a defendant to pay court fines and costs at some later date or to pay a specified portion of the fine and costs at designated intervals.

Fee Collected by District Clerk for Certain Certified Copies—H.B. 627

by Representative Woolley—Senate Sponsor: Senator Gallegos

Under current law, a district clerk must charge \$1.00 per page for any certified copy, even if the copy is obtained electronically. This bill:

Authorizes a district clerk to charge a fee not to exceed \$1.00 for certain certified copies.

Jurisdiction of Certain Constitutional County Courts Over Truancy Cases—H.B. 734

by Representatives Diane Patrick and Todd Smith—Senate Sponsor: Senator Nelson

Currently, a constitutional county court in a county with a population of two million or more is permitted to hear truancy cases. This bill:

Lowers the population threshold to 1.75 million.

Agreements Between Contiguous Municipalities Regarding Municipal Courts—H.B. 984

by Representative Truitt—Senate Sponsor: Senator Harris

A municipal court generally has jurisdiction only within its own city limits. This bill:

Authorizes contiguous municipalities or municipalities with boundaries that are within one-half mile of each other to enter agreements to establish concurrent jurisdiction of certain cases for their respective municipal courts.

Powers of Criminal Law Magistrate in Bexar County—H.B. 994

by Representative Castro—Senate Sponsor: Senator Zaffirini

Currently in Bexar County, a judge may refer to a criminal magistrate, and the magistrate judge may accept, only guilty pleas from certain defendants. This bill:

Authorizes a Bexar County judge to refer, and a magistrate to accept, a plea of nolo contendere from a defendant charged with a felony offense, a misdemeanor offense when charged with both a misdemeanor offense and a felony offense, or a misdemeanor offense.

Terms of 102nd District Court in Red River County—H.B. 1048*by Representative Cain—Senate Sponsor: Senator Eltife*

The 102nd District Court is comprised of Bowie and Red River counties. Currently, the court terms of both counties begin in different months with Red River County having twice as many terms each year. This bill:

Amends Section 24.204, Government Code, to align the court terms of Bowie and Red River counties.

Operation and Jurisdiction of Certain District Courts Serving Webb County—H.B. 1314*by Representative Raymond—Senate Sponsor: Senator Zaffirini*

Recently, the board of judges in Webb County unanimously passed a resolution to equally distribute the criminal, family, tax, and civil cases among the four district courts, with the goal of ensuring that dockets are not overloaded and that the judges have a balanced caseload. This bill:

Strikes language requiring the clerk of the district courts to docket certain types of cases in certain courts.

Amends the terms of the 111th District and grants that court concurrent jurisdiction with the other Webb County district courts.

Provides that a criminal complaint may be presented to the grand jury of any Webb County district court and that a resulting indictment may be returned to any other district court with the appropriate criminal jurisdiction.

Retention, Storage, and Destruction of Certain Court Documents—H.B. 1559*by Representative Sarah Davis et al.—Senate Sponsor: Senator Huffman*

Currently, there is a state moratorium on shredding court documents originating prior to 1860. However, documents dating from 1860 through 1950 are unprotected. This bill:

Requires the Texas State Library and Archives Commission (TSLAC) to adopt rules for the retention, storage, and destruction of court documents filed, presented, or produced prior to January 1, 1951.

Prohibits courts in this state from destroying such court documents, except as provided by TSLAC rules.

Establishment of Specialty Courts Advisory Council—H.B. 1771*by Representative Madden—Senate Sponsor: Senator Harris*

The Texas Legislature has appropriated funds to support existing drug courts and to expand the number of drug courts in Texas. The number of drug courts operating in Texas and registered with the criminal justice division of the Governor's Office (governor's office) has grown and those courts have expanded from serving adults to include juvenile, family, and veterans' projects. The governor's office has awarded over 60 grants totaling nearly \$8.6 million for fiscal year 2010. This bill:

Requires the governor to create the Specialty Courts Advisory Council (council) within the criminal justice division to evaluate applications for grant funding for specialty courts and to make funding recommendations to the criminal justice division.

Defines "specialty court."

Provides that the council is composed of seven members appointed by the governor.

Requires that three members have experience as judges of a specialty court and that four members represent the public.

Requires that the public members reside in various geographic regions of the state and have experience practicing law in a specialty court or possess knowledge and expertise in a field relating to behavioral or mental health issues or to substance abuse treatment.

Provides that the members are appointed for staggered six-year terms.

Prohibits a person required to register as a lobbyist because of the person's activities for compensation on behalf of a profession related to the operation of the council from being appointed as a member of the council.

Requires the governor, if a vacancy occurs on the council, to appoint a person to serve for the remainder of the unexpired term.

Requires the council to select a presiding officer.

Requires the council to meet at the call of its presiding officer or at the request of the governor.

Delivery of Certain Notices Sent by Statutory Probate Court Associate Judges—H.B. 1830

by Representative Naishtat—Senate Sponsor: Senator Harris

Current law does not clearly address the use of electronic communications by statutory probate court associate judges to communicate with the parties to a proceeding. This bill:

Authorizes probate judges to provide notice to the parties via electronic mail.

Provides that there is a rebuttable presumption that notice delivered by electronic mail is received on the date stated on the printout evidencing submission of the electronic mail message.

Creation of Municipal Courts of Record in the City of Mesquite—H.B. 1889

by Representative Burkett—Senate Sponsor: Senator Deuell

Currently, the municipal court in Mesquite, Texas, is not a court of record. This bill:

Requires the Mesquite city manager to appoint a municipal court administrator.

Provides that the municipal court administrator perform, as applicable, the duties prescribed by law for the county clerk of a county court at law and sets forth the duties of the municipal court administrator.

Requires the municipal court administrator to appoint a court reporter.

Requires that the presiding judge adopt rules for the municipal courts of record.

County Court at Law of Van Zandt County—H.B. 1897

by Representative Flynn—Senate Sponsor: Senator Deuell

In 2007, legislation was passed to allow Van Zandt County to plan for a court to begin in January of 2010. This bill:

Provides that a county court at law in Van Zandt County has concurrent jurisdiction with the district court in guardianship matters.

Provides that the district clerk serves as clerk of a county court at law in family court matters.

Requires that the jury for cases in the court of law's jurisdiction be comprised of six members unless the constitution requires a 12-member jury.

Creation of Magistrates in Certain Counties—H.B. 2132

by Representative Reynolds—Senate Sponsor: Senator Hegar

In counties such as Fort Bend County, justice of the peace courts and municipal courts hear truancy issues. Current law authorizes magistrates in counties with a population of two million or more to hear truancy cases. This bill:

Authorizes the judge of a constitutional county court in a county that has as a population of more than 585,000 and is contiguous to a county with a population of at least four million to appoint full-time or part-time magistrates to hear truancy cases; and provides that such appointment is subject to the approval of the commissioners court.

Sets forth the qualifications, compensation, and powers and duties of such truancy magistrates.

Requires the magistrate, on the entry of a not guilty plea, to refer the case back to the referring court.

Sets forth the procedure for the transmittal of papers relating to the case from the magistrate to the judge at the conclusion of a hearing.

Provides that a magistrate's finding or recommendation is final for appeal purposes unless the judge adopts, modifies, or rejects the findings or recommendations not later than the fifth working day after the date the judge receives the findings or recommendations.

Requires the judge to send written notice of any such modification or rejection to each party and the attorney representing the state not later than the fifth day after the date of the modification or rejection.

Appointment of Bailiffs for District Courts in Comal, Hays, and Caldwell Counties—H.B. 2310

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

Currently, the judges of certain district courts cannot employ their own bailiffs and the senior judge of the district appoints all of the bailiffs serving the counties in that district. This bill:

Authorizes the local administrative judges of the district courts in Comal, Hays, and Caldwell counties to appoint two or more bailiffs to serve the district courts in the respective counties as each judge determines necessary for the efficient operation of the district courts, subject to the approval of a majority of the district judges of those courts.

Authorizes a majority of the district judges of the respective courts to remove a bailiff appointed under the bill's provisions.

Prohibits the local administrative judge from appointing more than two bailiffs unless the funding for the additional bailiff is approved by the commissioners court of the respective county before the appointment.

Grants an appointed bailiff the salary recommended by the respective local administrative judge, subject to the approval of the commissioners court of the respective county.

Statutory County Courts in Wise County—H.B. 2330

by Representative Phil King—Senate Sponsor: Senator Estes

Currently, Wise County has one county court at law with the general jurisdiction granted to all statutory county courts and with family law jurisdiction concurrent with the district court. Wise County's population has been increasing steadily and the court's case load is also increasing. This bill:

Creates County Court at Law No. 2 of Wise County.

Authorizes both Wise County county courts at law to sit in Decatur or at another location in the county determined by the judge and approved by the commissioners court.

Requires a regular judge of a Wise County county court at law to have the qualifications of a district judge as required by the Texas Constitution.

Provides that the laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law.

Provides that the jurors regularly impaneled for a week by the district court may, on request of the judge of a county court at law, be made available and serve for the week in a county court at law.

Provides that a jury in all matters shall be composed of 12 members, except that in misdemeanor criminal cases and cases in which the amount in controversy is not more than \$100,000, the jury will be composed of six members unless a 12-member jury is required under the constitution or other law.

Authorizes a judge of a county court at law and a judge of a district court or another county court at law with concurrent jurisdiction to transfer cases between the courts in the same manner that judges of district courts transfer cases.

Appointment of a Court Reporter by a Criminal Law Magistrate in Bexar County—H.B. 2935

by Representative Castro—Senate Sponsor: Senator Zaffirini

Current law does not expressly provide for the appointment of an official court reporter by a criminal law magistrate in Bexar County. This bill:

Authorizes a full-time Bexar County criminal law magistrate, with the consent of the Bexar County Commissioners Court, to appoint an official court reporter to serve that magistrate.

Provides that the court reporter is a sworn officer of the court and serves at the magistrate's pleasure.

Administration of District Courts in Bexar County—H.B. 2936*by Representative Castro—Senate Sponsor: Senator Zaffirini*

Under current law, Section 24.139, Government Code, contains provisions regarding the district courts in the 37th Judicial District of Bexar County. This bill:

Amends Section 24.139 to include district courts that have been created in Bexar County, but have not been included in this section.

Sets forth when certain courts' terms begin and which courts give preference to certain matters.

Administration of Collection Improvement Program—H.B. 2949*by Representative Cook—Senate Sponsor: Senator Eltife*

In 2005, the legislature created the Collection Improvement Program (CIP), with a goal of expanding collections of court-ordered payments. The Office of Court Administration of the Texas Judicial System (OCA) was charged with developing a model to improve collections by cities and counties. Under current law, only cities of over 100,000 population and counties over 50,000 population are required to implement the model. The comptroller of public accounts (comptroller) is responsible for auditing, or determining the collection rates of cities and counties, and has eight auditors assigned to this function. This bill:

Defines "eligible case" as not including a criminal case in which a defendant has been placed on deferred disposition or has elected to take a driving safety course.

Authorizes a county to develop and implement a program that complies with the prioritized implementation schedule.

Strikes the population threshold for counties.

Requires OCA, not later than June 1 of each year, to identify those counties and municipalities that are planning, rather than able to, implement a program before April 1 of the following year.

Authorizes OCA to determine whether it is not actually cost-effective for a municipality to implement a program and grant a waiver to the municipality.

Strikes certain provisions requiring OCA to consult or act in cooperation with the comptroller.

Transfers from the comptroller to OCA duties regarding audits and enforcement.

Provides that a municipality may not retain a service fee if the municipality receives written notice from OCA of noncompliance and is unable to reestablish compliance within 180 days after the receipt of the notice.

Requires a political subdivision to immediately notify the Texas Department of Public Safety of the State of Texas (DPS) that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment in certain circumstances, such as if the charge is dismissed or bond has been posted.

Duty of Attorney *Ad Litem* Appointed for a Child Before a Court Hearing—H.B. 3311

by Representative Carter—Senate Sponsor: Senator Nelson

Current law requires an attorney *ad litem* appointed for a child to meet with the child or individual with whom the child resides before each court hearing. This bill:

Requires that such meeting take place:

- a sufficient time before the hearing to allow the attorney *ad litem* to prepare for the hearing in accordance with the child's expressed objectives of representation; and
- in a private setting that allows for confidential communications between the attorney *ad litem* and the child or individual with whom the child ordinarily resides, as applicable.

Recusal and Disqualification of Municipal Judges—H.B. 3475

by Representative Gallego—Senate Sponsor: Senator West

In 1999, the legislature enacted Section 29.012 (Sitting for Disqualified or Recused Judge), Government Code. In comparison to other trial courts in Texas, the law governing recusal or disqualification without a motion by a party in a municipal court is complicated by the variance in municipal court organization authorized by state law. To further complicate matters, there is widespread disagreement about the applicability of Texas Rule of Civil Procedure 18a. Though the Texas Rules of Civil Procedure do not generally govern proceedings in criminal cases, the Court of Criminal Appeals in *Arnold v. State*, 853 S.W.2d 543 (Tex. Crim. App. 1993) held that absent clear legislative intent, Rule 18a, which contains procedures for the recusal of a judge, applies in criminal cases. There is a conflict in law between the *Arnold* opinion and Section 29.012, Government Code. In 2010, the Texas Municipal Courts Association passed a resolution requesting that Section 29.012 of the Government Code be amended in manner that resolves the perceived conflict in law. In 2011, the Texas Judicial Council passed a similar resolution. This bill:

Repeals the existing language in Section 29.012, Government Code.

Enacts a more detailed set of procedures relating to the recusal and disqualification in municipal courts, including:

- defining "active judge," "presiding judge," and "regional presiding judge;"
- setting forth the procedure and notice requirements for a motion for recusal or disqualification in a municipal court;
- requiring a municipal judge, in a case in which a motion for the recusal or disqualification has been filed, to recuse or disqualify himself or herself or to request the regional presiding judge to assign a judge to hear the motion;
- requiring a municipal judge who with or without a motion recuses or disqualifies himself or herself to enter an order of recusal or disqualification;
- setting forth who is qualified to hear the case if a municipal judge recuses or disqualifies himself or herself;
- setting forth the procedure when a municipal judge does not recuse or disqualify himself or herself;
- setting forth the procedure and notice requirements for hearing on a motion to recuse or disqualify a municipal judge;
- setting forth the procedure following the granting of such a motion;
- authorizing a party to appeal an order that denies a motion for recusal or disqualification as an abuse of the court's discretion after a municipal court of record has rendered a final judgment in a case;
- providing that a party may not appeal an order that grants a motion for recusal or disqualification;
- authorizing a judge to find the party filing the motion recuse or disqualify in contempt if the judge determines, at a hearing and on motion of the opposing party, that the motion to recuse or disqualify was

- brought solely for the purpose of delay and without sufficient cause;
- setting forth the compensation to be paid to certain judges assigned to hear a motion to recuse or disqualify a municipal judge;
- requiring the secretary of the municipality with a municipal court of record or the employee responsible for maintaining the records of the municipality's governing body to notify the Texas Judicial Council (TJC) of the name of the elected or appointed mayor, municipal court judge, or clerk of a municipal court and any vacancy in such office; and
- requiring that such notice be sent to TJC not later than the 30th day after the date of the person's election or appointment to office or vacancy from office.

Composition of Certain Judicial Districts—H.B. 3796

by Representative Gallego—Senate Sponsor: Senator Uresti

Edwards County is currently part of the 63rd Judicial District, which includes Kinney, Terrell, and Val Verde counties. The district covers a substantial amount of land and there are case backlogs. This bill:

Transfers Edwards County from the jurisdiction of the 63rd Judicial District to the jurisdiction of the 198th Judicial District.

Adoption of Uniform Collaborative Law Act Regarding Family Law Matters—H.B. 3833

by Representative Phillips—Senate Sponsor: Senator Harris

The Texas Commission on Uniform State Laws has recommended that the collaborative law process be codified to incorporate best practices and uniformity with the laws of other states. The collaborative law process is a form of alternative dispute resolution that enables couples who have decided to dissolve their marriage to work with lawyers and other family professionals to find a resolution that best meets the needs of both parties and their children. This bill:

Adds Title 1-A (Collaborative Family Law) to the Family Code.

Provides that it is state policy to encourage the peaceable resolution of disputes, with special consideration given to disputes involving the parent-child relationship

Provides that this Act prevails if there is any conflict between a provision of Act and any another statute or rule of this state.

Provides that in construing this Act, consideration must be given to the need to promote uniformity of the law among states that enact a collaborative law process for family law matters.

Provides that this Act modifies, limits, or supersedes certain federal laws regarding electronic signatures and notice.

Provides that the Act may be cited as the Collaborative Family Law Act.

Provides that this Act applies only to matters arising under Title 1 (The Marriage Relationship) or 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship).

Sets forth the requirements for a collaborative family law participation agreement.

Sets forth when the collaborative family law process begins and when it concludes.

Authorizes the parties to a proceeding pending before a tribunal to sign a collaborative family law participation agreement to seek to resolve a collaborative family law matter related to the proceeding.

Provides that certain proceedings are stayed until a party notifies the tribunal that the collaborative family law process did not result in a settlement:

Requires the parties to notify the tribunal in a pending proceeding if the collaborative family law process results in a settlement.

Authorizes the tribunal to require that the parties and collaborative lawyers provide a status report on the collaborative family law process and the proceeding in certain circumstances.

Authorizes a tribunal to issue an emergency order to protect the health, safety, welfare, or interest of a party or a family and provides that if the emergency order is granted without the agreement of all parties, the granting of the order terminates the collaborative process.

Provides that a settlement agreement under the Act is enforceable under the Civil Practice and Remedies Code.

Sets forth when a party is entitled to judgment on a collaborative family law settlement agreement.

Disqualifies a collaborative lawyer and a lawyer in a law firm with which the collaborative lawyer is associated from appearing before a tribunal to represent a party in a proceeding related to the collaborative family law matter, except in certain specified proceedings.

Provides for an exception from such disqualification following the conclusion of a collaborative family law process for another lawyer in a law firm with which a collaborative lawyer is associated in certain pro bono matters.

Provides that the disqualification applies to a collaborative lawyer representing a party that is a governmental entity, but permits another lawyer in a law firm with which the collaborative lawyer is associated to represent a governmental entity in certain specified circumstances.

Requires a party to make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery and to update promptly any previously disclosed information that has materially changed.

Authorizes the parties to define the scope of the disclosure during the collaborative family law process.

Provides that this Act does not affect the professional responsibility obligations and standards applicable to a lawyer or other licensed professional or the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult.

Sets forth the information a prospective collaborative lawyer must provide to a prospective party.

Requires a prospective collaborative lawyer to make reasonable inquiry regarding whether the prospective party has a history of family violence with the other prospective party.

Prohibits a collaborative lawyer who reasonably believes that the party the lawyer represents or the prospective party with whom the collaborative lawyer consults has a history of family violence with another party from beginning or continuing a collaborative family law process unless the party or prospective party requests beginning or continuing a process and the lawyer determines with the that party what, if any, reasonable steps could be taken to address the concerns regarding family violence.

Provides that a collaborative family law communication is confidential to the extent agreed to by the parties in a signed record or as provided by other law.

Provides that if the parties agree in a signed record, the following are confidential: the conduct and demeanor of the parties and nonparty participants, including their collaborative lawyers; and communications related to the collaborative family law matter occurring before the signing of the collaborative family law participation agreement.

Provides that a collaborative family law communication, whether made before or after the institution of a proceeding, is privileged and not subject to disclosure and may not be used as evidence against a party or nonparty participant in a proceeding.

Provides that an oral communication or written material used in or made a part of a collaborative family law process is admissible or discoverable if it is admissible or discoverable independent of the collaborative family law process.

Authorizes a tribunal to hold an in camera proceeding on the issue of privilege if this Act conflicts with other legal requirements for disclosure of communications or materials.

Provides for the disclose of privileged collaborative family law communications to a party's successor counsel.

Provides that a person who makes a disclosure or representation about a collaborative family law communication that prejudices the rights of a party or nonparty participant in a proceeding may not assert a privilege under this Act to the extent necessary for the person prejudiced to respond to the disclosure or representation.

Limits the privilege in specific circumstances, such as a threat to inflict bodily injury or commit a crime of violence.

Provides that if a collaborative family law communication is subject to such an exception, only the part of the communication necessary for the application of the exception may be disclosed or admitted and that such evidence is not discoverable or admissible for any other purpose.

Authorizes a tribunal in certain circumstances to find that the parties intended to enter into a collaborative family law participation agreement even if not all requirements are met.

Creation of Criminal Law Magistrates for Burnet County—H.B. 3844

by Representative Aycock—Senate Sponsor: Senator Fraser

Currently, only certain counties have the authority to hire a magistrate or appoint an associate judge to magistrate. This bill:

Authorizes the Burnet County Commissioners Court to select magistrates to serve in courts with jurisdiction over criminal matters.

Sets forth the compensation, qualifications, powers, and duties of such magistrates.

Referral of Proceedings to and the Powers of a Criminal Law Magistrate in Travis County—H.B. 3856

by Representative Naishtat—Senate Sponsor: Senator Watson

Travis County has seven district judges with jurisdiction over criminal matters. They are assisted by a criminal magistrate appointed by the judges. Subchapter Q (Criminal Law Magistrates in Travis County), Chapter 54

(Masters; Magistrates; Referees; Associate Judges), Government Code, which was first passed in 1991, sets forth the qualifications, powers, and duties of the criminal magistrate. This bill:

Authorizes a judge to refer to a magistrate any matter related to criminal law for certain proceedings.

Expands the proceedings that may be referred to a magistrate.

Authorizes a judge to refer to a magistrate proceedings involving a grand jury.

Bars a magistrate from impaneling a grand jury.

Authorizes a judge to issue a general order of referral authorizing the magistrate to act on certain types of matters without requiring an order for each referral.

Authorizes a magistrate to issue certain search warrants.

Authorizes a magistrate to sign certain motions to dismiss.

Clarifies that the magistrate has all the powers of magistrates generally.

Authorizes a magistrate to grant orders under Article 18.21 (Pen Registers and Trap and Trace Devices; Access to Stored Communications; Mobile Tracking Devices), Code of Criminal Procedure.

Appointment of Associate Judges in Child Protective Services Cases—S.B. 283

by Senator Harris—House Sponsor: Representative Scott

Under Section 201.201, Title 5, Family Code, a regional presiding judge, after conferring with the judges of courts in the region having family law jurisdiction and child protection caseloads, is authorized to appoint a child protection court associate judge to complete cases within the time specified in Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) and Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services). Once an associate judge is appointed, all child protection cases are required to be referred to the associate judge. However, it is unclear under current law whether this section limits the jurisdiction of the associate judges to actions filed under Chapters 262 and 263.

Clarifies that child protection associate judges have jurisdiction to hear any child protection matter filed under Subtitle E (Protection of the Child), Family Code.

Certain Matters Relating to Municipal Courts of Record and Municipal Judges—S.B. 480

by Senator Hegar—House Sponsor: Representative Gallego

There are two types of municipal courts: municipal courts of record and non-record municipal courts. Under current law, a defendant in an action in a municipal court of record who is fined \$100 or less cannot make a further appeal to a state court of appeals, but a defendant in an action in a non-record municipal court who is fined \$100 or less may make a further appeal to a state court of appeals based on a challenge to the constitutionality of the statute on which the defendant's conviction is based.

In 1999, the legislature enacted Section 29.012 (Sitting for Disqualified or Recused Judge), Government Code. In comparison to other trial courts in Texas, the law governing recusal or disqualification without a motion by a party in a municipal court is complicated by the variance in municipal court organization authorized by state law. To further

complicate matters, there is widespread disagreement about the applicability of Texas Rule of Civil Procedure 18a. Though the Texas Rules of Civil Procedure do not generally govern proceedings in criminal cases, the Court of Criminal Appeals in *Arnold v. State*, 853 S.W.2d 543 (Tex. Crim. App. 1993) held that absent clear legislative intent, Rule 18a, which contains procedures for the recusal of a judge, applies in criminal cases. There is a conflict in law between the *Arnold* opinion and Section 29.012, Government Code. In 2010, the Texas Municipal Courts Association passed a resolution requesting that Section 29.012 of the Government Code be amended in manner that resolves the perceived conflict in law. In 2011, TJC passed a similar resolution. This bill:

Repeals the existing language in Section 29.012, Government Code.

Enacts a more detailed set of procedures relating to the recusal and disqualification in municipal courts, including:

- defining "active judge," "presiding judge," and "regional presiding judge;"
- setting forth the procedure and notice requirements for a motion for recusal or disqualification in a municipal court;
- requiring a municipal judge, in a case in which a motion for the recusal or disqualification has been filed, to recuse or disqualify himself or herself or to request the regional presiding judge to assign a judge to hear the motion;
- requiring a municipal judge who with or without a motion recuses or disqualifies himself or herself to enter an order of recusal or disqualification;
- setting forth who is qualified to hear the case if a municipal judge recuses or disqualifies himself or herself;
- setting forth the procedure when a municipal judge does not recuse or disqualify himself or herself;
- setting forth the procedure and notice requirements for hearing on a motion to recuse or disqualify a municipal judge;
- setting forth the procedure following the granting of such a motion;
- authorizing a party to appeal an order that denies a motion for recusal or disqualification as an abuse of the court's discretion after a municipal court of record has rendered a final judgment in a case;
- providing that a party may not appeal an order that grants a motion for recusal or disqualification;
- authorizing a judge to find the party filing the motion recuse or disqualify in contempt if the judge determines, at a hearing and on motion of the opposing party, that the motion to recuse or disqualify was brought solely for the purpose of delay and without sufficient cause;
- setting forth the compensation to be paid to certain judges assigned to hear a motion to recuse or disqualify a municipal judge;
- requiring the secretary of the municipality with a municipal court of record or the employee responsible for maintaining the records of the municipality's governing body to notify TJC of the name of the elected or appointed mayor, municipal court judge, or clerk of a municipal court and any vacancy in such office; and
- requiring that such notice be sent to TJC not later than the 30th day after the date of the person's election or appointment to office or vacancy from office.

Authorizes a defendant in an action in a municipal court of record who is fined \$100 or less to make a further appeal to a state court of appeals based on a challenge to the constitutionality of the statute on which the defendant's conviction is based.

Powers and Duties of Criminal Law Magistrates in Tarrant County—S.B. 483

by Senator Harris—House Sponsor: Representative Todd Smith

Under current law, district judges in Tarrant County may refer to a magistrate criminal cases for certain proceedings. The Tarrant County district judges, with the support and approval of the commissioners court, want to expand the duties and authority of the criminal law magistrates. This bill:

Authorizes a judge to refer to a criminal law magistrate an agreed order of expunction, an asset forfeiture, an agreed order of nondisclosure, a hearing on a motion to revoke probation, and a civil case arising out of Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure.

Authorizes a magistrate to enter a ruling related to a negotiated plea on a probation revocation, conduct a contested probation revocation hearing, and sign a dismissal in a misdemeanor case.

Provides that a magistrate cannot hear a jury trial on the merits of a bond forfeiture.

Strikes a provision prohibiting a magistrate from entering a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution.

Authorizes a magistrate with jurisdiction over criminal cases serving a district court to issue search warrants.

Proper Venue for Certain Criminal Prosecutions of Mortgage Fraud—S.B. 485

by Senator Huffman—House Sponsor: Representative Carter

Under current law, mortgage fraud must be prosecuted in the county where the fraud was committed; however, the real property may be in another county. This bill:

Defines "real estate transaction."

Authorizes the prosecution of fraud involving a real estate transaction in the county where the property is located or in the county where any part of the transaction occurred, including the generation of mortgage documents.

Provides that certain offenses involving a real estate transaction may also be prosecuted in any county authorized by Article 13.27 (Simulating Legal Process), Code of Criminal Procedure.

Period for a Motion for New Trial in Criminal Proceeding—S.B. 519

by Senator Hegar—House Sponsor: Representative Hartnett et al.

Under current law, a criminal defendant in a justice or municipal court has one day after judgment to make a motion for a new trial. The one-day time period is much shorter than the time period to make a motion for new trial in a civil case in justice or municipal court or the time period to make a motion for new trial in a criminal case in a county-level court or a district court. This bill:

Extends the time period to make a motion for new trial in a criminal case in a justice or municipal court from one day to five days.

Creation of an Appellate Judicial System for the Eighth Court of Appeals District—S.B. 605

by Senator Rodriguez—House Sponsor: Representative Gallego et al.

Twelve of the 14 Texas appellate courts have an appellate judicial system that assists the appellate courts in the processing of appeals. This bill:

Establishes an appellate judicial system in each of the counties in the Eighth Court of Appeals District to assist the appellate court in processing appeals.

Requires the commissioners court of each county to establish a fund to collect a \$5 fee on civil suits filed in the county courts, statutory county courts, statutory probate courts, and district courts.

Exempts suits filed by a governmental entity or for delinquent taxes from this fee.

Requires the clerk of each court to collect the fee and pay it to the county treasurer, who must deposit it in a separate appellate judicial system fund for use by the Eighth Court of Appeals.

Prohibits the fund from being used for any other purpose.

Requires the commissioners court to monthly order the funds collected to be forwarded to the court of appeals for expenditure by the court for its appellate judicial system.

Grants the chief justice of the court of appeals sole discretion as to the use of the fund.

Venue for Prosecution of Certain Theft Offenses—S.B. 1103

by Senator Carona—House Sponsor: Representative Carter et al.

Current law provides that if merchandise is stolen in one county but recovered in another county, the accused will be prosecuted in the county where the merchandise is recovered, despite the fact that more evidence exists in the county where the merchandise was stolen. This bill:

Provides that an offender who commits the crime of organized retail theft may be prosecuted either in the county in which the property was stolen or in any county through or into which the property was removed.

Postponement of Jury Service in Certain Counties—S.B. 1195

by Senator Rodriguez—House Sponsor: Representative Quintanilla

El Paso County has a jury plan detailing the jury process and using an electronic method to select persons for jury service. The El Paso Council of Judges created a jury duty court, which oversees show cause hearings for jurors who fail to appear, excuses jurors, grants exemptions and postponements of jury service. Currently, only the administrative judge or the jury duty court judge may authorize jury service postponement under the El Paso County jury selection plan. This bill:

Provides that the Act applies only to a county that has a council of judges composed of district courts and county courts at law judges and a designated jury duty court that addresses administrative matters related to jury service paid for by the county.

Authorizes a person summoned for jury service to request a postponement of the person's initial appearance for jury service by contacting the council's designee before the date on which the person is summoned to appear.

Requires the designee to grant the person a postponement if certain criteria are met.

Authorizes a person who is granted a postponement to request additional postponements.

Authorizes the council of judge's designee to grant such postponement after the designee and the person determine a date on which the person will appear for jury service that is not later than six months after the date on which the person was to appear after the later of the date of the initial postponement or the last postponement granted.

Duties of District Clerks Regarding Certain Electronic Filing Systems—S.B. 1228

by Senator Hegar—House Sponsor: Representative Jim Jackson

S.B. 1259, 81st Legislature, Regular Session, 2009, required county and district clerks who accept electronic filings from the attorney representing the state to also accept electronic filings from the defendant. At that time, a number of urban counties had already entered into procurement agreements to purchase court administration systems or had already established systems capable of accepting electronic filings by the attorney representing the state. However, these systems did not include an option to accept electronic filings from a defendant. This means that a county clerk or district clerk must either refuse to use the electronic filing component of the court administration system or courts must spend thousands of dollars updating their systems to accept filings from defense counsel. This bill:

Exempts a district clerk from the electronic filing requirements if the electronic filing system used by the clerk for accepting electronic documents or electronic digital media from an attorney representing the state does not have the capability of accepting electronic filings from a defendant and the system was established or procured before June 1, 2009.

Provides that this exemption is no longer applicable if such electronic filing system is substantially upgraded or is replaced with a new system.

Judicial Immunity and Powers of Certain Magistrates—S.B. 1242

by Senator West—House Sponsor: Representative Jim Jackson

Section 54.1171 (Application of Subchapter), Government Code, allows county judges in counties with over two million people to appoint magistrates to hear truancy cases. This statute requires the appointing judge to adopt, modify, or reject the magistrate's recommendations by the third working day after the judge receives the recommendations. This bill:

Provides that a magistrate's recommendation is automatically adopted if the appointing judge takes no action by the third working day after the judge receives the recommendation.

Grants the magistrate the same judicial immunity that is granted to a district judge.

Educational, Juvenile Justice, and Criminal Justice Responses to Truancy—S.B. 1489

by Senators Whitmire and West—House Sponsor: Representative Madden

Under current law, every child from the ages of six to 17 years is required to attend school. If a child has 10 or more unexcused absences within a six-month period, or three or more unexcused absences within a four-week period, the child is considered truant. Truancy is currently a Class C misdemeanor and violators may be referred to county, municipal, justice, and juvenile courts. Truancy proceedings may expose young children to the criminal courts and result in a conviction record. This bill:

Amends Section 25.094 (Failure to Attend School), Education Code, to limit the offense to individuals who are 12 years of age or older and younger than 18 years of age.

Defines "child" under Section 51.03 (Delinquent Conduct; Conduct Indicating a Need for Supervision), Family Code, as a person who is 10 years of age or older; alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age; and required to attend school under Section 25.085, Education Code.

Provides that a juvenile court transfer a child to certain courts only if the child is 12 years of age or older.

Authorizes a county, justice, or municipal court to exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision in a case where the person is 12 years of age or older.

Provides that a dispositional order regarding the failure to attend school may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

Authorizes a juvenile court to modify such disposition until the expiration of said period.

Provides that such disposition does not automatically terminate when the child reaches his or her 18th birthday.

Requires a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if the court finds that the individual has successfully complied with the conditions imposed on the individual by the court; or the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

Authorizes a county, justice, or municipal court to waive or reduce a fee or court cost imposed for failure to attend school if payment of the fee or cost would cause financial hardship.

Requires a court to expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if the court finds that the individual has successfully complied with the conditions imposed on the individual by the court; or before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

Provides that defendants convicted of a fine-only misdemeanor offense may be required to pay a juvenile case manager fee only if the municipality or the court, as applicable, employs a juvenile case manager.

Requires a school district to adopt truancy prevention measures designed to address student conduct related to truancy and minimize the need for referrals to juvenile court and the filing of complaints in county, justice, or municipal courts.

Requires that each such referral or complaint be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, certifying that the truancy prevention measures failed to meaningfully address the student's school attendance, and specifying whether the student is eligible for or receives special education services.

Authorizes a peace officer serving as an attendance officer or other attendance officer to apply such truancy prevention measures to a student; and refer the student to juvenile court or file a complaint against the student in county, justice, or municipal court if the truancy prevention measures fail to meaningfully address the student's conduct.

Grants access to information contained in the juvenile justice information system to a county, justice, or municipal court exercising jurisdiction over a juvenile regarding truancy.

Provides that such information remains confidential and may be disclosed only as provided by law.

Repeals a provision requiring certain juvenile case managers work primarily on nonattendance and truancy cases.

Distribution of Money Appropriated From a Municipal Court Building Security Fund—S.B. 1521

by Senator Uresti—House Sponsor: Representative Gallego et al.

Article 102.017 (Court Costs; Courthouse Security Fund; Municipal Court Building Security Fund; Justice Court Building Security Fund), Code of Criminal Procedure, authorizes a municipal court to create a municipal court building security fund (fund) and to charge a defendant convicted of a misdemeanor a \$3 security fee as a cost of the court. The fund is to be used for security personnel, services, and items related to the buildings that house the municipal court. A warrant officer is considered an officer of the municipal court and, simultaneously, commissioned by the police department. The warrant officer's core duties include searching for and arresting individuals with outstanding warrants issued by the municipal court. This bill:

Includes warrant officers and related equipment in the definition of security personnel, services, and items related to the buildings that house the municipal court.

444th Judicial District—S.B. 1807 [Vetoed]

by Senator Lucio—House Sponsor: Representative Lozano

Under current law, the 197th District Court has jurisdiction in both Cameron County and Willacy County. Over the past several years, there has been a significant increase in criminal felony cases filed in Willacy County. This bill:

Expands the 444th Judicial District of Cameron County to include Willacy County and authorizes the court to hear cases not limited to family law matters while sitting in Willacy County.

Appointment of Parenting Coordinator or Parenting Facilitator—H.B. 149

by Representative Raymond—Senate Sponsor: Senator Zaffirini

If the parties in a suit affecting the parent-child relationship are unable to afford the fees of a parenting coordinator due to hardship, a court may appoint a public employee to act as a parenting coordinator or facilitator. However, these officers and individuals are not always available in smaller counties. This bill:

Authorizes a court, if due to hardship the parties are unable to pay the fees of a parenting coordinator or facilitator, and a domestic relations office or a comparable county agency is not available, to appoint a person, including an employee of the court, to act as a parenting coordinator.

Requires the person appointed to meet the minimum qualifications prescribed by state law.

Provides that the person serves without compensation.

Disposition of Decedent's Remains—H.B. 549

by Representative Dutton—Senate Sponsor: Senator Uresti

Under current law, unless a decedent has left written directions for the disposition of the decedent's remains, Texas law grants certain persons the right to control the disposition. There are no provisions addressing the right of disposition if such person was involved in the decedent's death. This bill:

Provides that a person may not control the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime that involves family violence against the decedent.

Protective Orders for Victims of Sexual Assault—H.B. 649

by Representative Gallego—Senate Sponsor: Senator Hinojosa

In order to be eligible for a protective order, a victim of sexual assault or rape who is over the age of 18 must show evidence of an original assault and threat of further harm from the alleged offender. According to the 13th Court of Appeals, interpretation of the threat requirement does not consider the threat of emotional harm from unwanted contact with a perpetrator sufficient evidence to entitle a victim to a protective order. This bill:

Allows protective orders for victims of sexual assault without requiring the victim to show a threat of further harm by the assailant.

Criminal Defendant's Competency to Stand Trial—H.B. 748

by Representatives Menendez and Hartnett—Senate Sponsor: Senator Van de Putte

A defendant who is determined incompetent to stand trial must be committed to a mental health facility or a residential care facility for further examination and treatment directed toward attaining competency to stand trial. The original time period for commitment must not exceed 120 days but can be extended one time for an additional 60-day period. The ultimate adjudication of the charge for which the defendant was committed for competency restoration does not allow for the defendant to receive any time credits for the time spent in the mental health or residential care facility. This bill:

Requires the judge to give the defendant credit on the defendant's sentence for time spent in the mental health or residential care facility.

Spousal Maintenance—H.B. 901

by Representative Thompson et al.—Senate Sponsor: Senator Harris

The law regarding spousal maintenance, including economic limitations and duration of maintenance, has not been substantially revised since enactment. This bill:

Amends and clarifies statutory provisions relating to the maximum amount and duration of spousal maintenance.

Clarifies that a court may order maintenance for a spouse only if the spouse seeking maintenance will lack sufficient property on dissolution of the marriage to provide for the spouse's minimum reasonable needs and certain other conditions are met.

Clarifies that a spouse who has custody of a child of the marriage is entitled to maintenance if the child needs substantial care and personal supervision because of a physical or mental disability that prevents the spouse from earning sufficient income to provide for the spouse's minimum reasonable needs.

Clarifies the relevant factors a court must consider in determining maintenance, including any history or pattern of family violence.

Increases the period that an order for spousal maintenance may remain in effect from three years to five years if the spouses were married to each other for less than 10 years in certain circumstances or were married for at least 10 years and but not more than 20 years, to seven years if the spouses were married to each other for at least 20 years but not more than 30 years, and to 10 years if the spouses were married to each other for 30 years or more.

Authorizes a court to order the periodic review of its order for maintenance.

Provides that a court may not order maintenance that requires an obligor to pay monthly more than the lesser of \$5,000, rather than \$2,500, or 20 percent of the spouse's average monthly gross income.

Defines "gross income."

Clarifies that a court must order the termination of the maintenance obligation if the court finds that the obligee cohabits with another person with whom the obligee has a dating or romantic relationship.

Provides that the termination of the maintenance obligation does not terminate the obligation to pay any maintenance accruing before the date of termination.

Prohibits a court from enforcing by contempt any provision of an agreed order for maintenance for any period of maintenance beyond the authorized statutory period of maintenance.

Admissibility of Hearsay Statements of a Child Regarding a Protective Order—H.B. 905

by Representatives Thompson and Naomi Gonzalez—Senate Sponsor: Senator Harris

Under current law, hearsay statements by a child 12 years of age or younger describing alleged abuse may be admissible in suits affecting the parent-child relationship. Such statements are not admissible in application for a protective order. This bill:

Provides that hearsay statements made by a child 12 years of age or younger describing alleged abuse are admissible in a hearing on an application for a protective order if the court finds that the statements are otherwise reliable.

Relating to Certain Suits Affecting the Parent-Child Relationship—H.B. 906

by Representative Thompson—Senate Sponsor: Senator Rodriguez

Under current law, an indigent parent seeking to appeal a termination of parental rights order is required to reapply for indigent status before beginning the appeals process. In an action seeking the termination of parental rights, it is less detrimental to the parties if the appellate case can be heard and a decision made as soon as possible. This bill:

Provides that the indigent status of a parent continues for the remainder of the proceeding unless a material and substantial change of financial circumstance occurs.

Provides that in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child, an attorney appointed as an attorney *ad litem* for a parent or alleged father continues to serve until the suit is dismissed, all appeals are exhausted or waived, or the attorney is relieved of the attorney's duties after a finding of good cause.

Provides that an appeal of a final order rendered is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure.

Requires the Supreme Court of Texas to adopt rules accelerating the disposition by an appellate court of a final order granting termination of the parent-child relationship.

Division of Community Property on Dissolution of Marriage—H.B. 908

by Representative Thompson—Senate Sponsor: Senator Harris

Current law does not provide clear guidelines to a court regarding a division of community estate when one spouse has committed fraud on the community (one spouse takes an action, without the consent of the other spouse, that adversely affects the value of the community property or the other spouse's interest in that property). This bill:

Defines "reconstituted estate."

Requires a court, if the trier of fact determines that a spouse has committed fraud against the community, to calculate the value of the community as if the fraud had not occurred and divide the property as the court deems just based on this amount.

Authorizes the court to grant any legal or equitable relief necessary to accomplish the just and right division of the property.

Exempting School Districts From Security for Court Costs and Appeal Bond—H.B. 942

by Representatives Dukes and Legler—Senate Sponsor: Senator Gallegos

Currently, a Texas school district may be required to post a cost or appeal bond in a civil suit. A cost bond may be assessed at the beginning of a court proceeding and is intended to secure payment of court fees if a party is later unable to pay such fees. An appeal bond may be ordered to secure payment in the event of filing to appeal from

judgment. Many political subdivisions, including state and federal agencies, municipalities, and water districts, are exempt from this requirement. This bill:

Authorizes a school district to institute and prosecute suits without giving security for cost.

Provides that a school district may appeal from a judgment without giving supersedeas or cost bond.

Relating to Rules Regarding Return of Service—H.B. 962

by Representative Hartnett—Senate Sponsor: Senator Rodriguez

Currently, process servers are required to have returns of service signed before a notary public, which adds additional time and cost to litigants. This bill:

Requires the Supreme Court of Texas to adopt rules of civil procedure requiring a person who serves process to complete a return of service.

Requires that these rules provide that the return of service is not required to be endorsed or attached to the original process issued and may be electronically filed.

Requires a person certified by the Supreme Court of Texas as a process server or a person authorized outside of Texas to serve process to sign the return of service under penalty of perjury and specifies that the return of service is not required to be verified.

Provides for prosecution under the Penal Code for tampering with a governmental record if the person knowingly or intentionally falsifies a return of service.

Removes a requirement that a failed substituted return of service relating to long-arm jurisdiction over a nonresident motor vehicle operator be endorsed on or attached to the original process issued.

Requires that such return of service be signed under penalty of perjury by the party making the service, rather than sworn to by the party making the service before a person authorized by law to make an affidavit under the person's hand and seal.

Collection of Court Costs and Other Money by Certain Commissioners Courts—H.B. 1426

by Representative Farias—Senate Sponsor: Senator Wentworth

Currently, counties with populations over 50,000 may create a collections improvement program (CIP) modeled after a program developed by the Office of Court Administration (OCA). Under current law, a commissioners court is not listed as an entity authorized to collect the applicable court costs, fees, and fines associated with a CIP. This bill:

Authorizes the commissioners court of a county that has implemented a CIP to collect money payable under the CIP.

Pretrial and Post-trial Procedures and Testing—H.B. 1573

by Representative Gallego—Senate Sponsor: Senator Carona

A clerk of the court must post public notice of an upcoming criminal court docket setting at least 48 hours before the case is heard. An additional pretrial issue arises when the public becomes aware of an indictment before it has been appropriately entered into court records. There is no requirement for an *ex parte* petition for the expunction of a

criminal record to include certain contact information for certain entities that are believed to have records or files subject to the expunction petition.

Under existing law, post-conviction DNA testing can be granted only if the evidence containing biological material was not previously subjected to DNA testing because DNA testing was not available, testing was available but not technologically capable of providing probative results, or was not tested through no fault of the convicted person, and should be tested in the interests of justice. This bill:

Requires the clerk of a court that does not provide online Internet access to that court's criminal case records to post notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting.

Prohibits an indictment from being made public if the defendant is not in custody or under bond at the time of the presentment of indictment.

Requires that a petition and application for expunction include applicable physical or e-mail addresses.

Defines "biological material" as an item that is in possession of the state that contains blood, semen, hair, saliva, skin tissue or cells, fingernail scrapings, bone, bodily fluids, or other identifiable biological evidence that may be suitable for forensic DNA testing and includes the contents of a sexual assault evidence collection kit.

Provides that a convicted person may request forensic DNA testing of evidence that was secured in relation to the offense if the evidence was not previously subjected to DNA testing or the biological evidence was previously tested, but can be subjected to newer testing techniques that provide a reasonable likelihood that the results will be more accurate and probative than previous test results.

Requires the convicting court to order any unidentified DNA profile to be compared with the DNA profiles in the DNA database established by the Federal Bureau of Investigation and the DNA database maintained by the Department of Public Safety of the State of Texas (DPS).

Requires the convicting court, after examining the results of testing and any comparison of a DNA profile, to hold a finding as to whether, had the results been available during the trial of the offense, it is reasonably probable that the person would not have been convicted.

Fees for Process Server Certification—H.B. 1614

by Representative Gooden et al.—Senate Sponsor: Senator Deuell

The Process Server Review Board (PSRB), established by the Supreme Court of Texas, considers applications for the certification and recertification of process servers in Texas. Currently, applicants do not pay an application fee when applying for certification or recertification. This bill:

Authorizes PSRB to recommend to the supreme court fees to be charged for process server certification and renewal of certification.

Requires that the supreme court approve the fees before the fees may be collected.

Provides for the proration of the fee if a certification is issued or renewed for a term that is less than the certification period provided by supreme court rule.

Authorizes OCA to collect the fees recommended by PSRB.

Disqualification of a District or County Attorney—H.B. 1638

by Representative Aliseda—Senate Sponsor: Senator Whitmire

Currently, there is no statutory means to prosecute a district or county attorney for a criminal act committed within the district or county attorney's jurisdiction. This bill:

Provides that a judge of a court in which a district or county attorney represents the state shall declare the district or county attorney disqualified on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute.

Provides that the disqualification applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

Writs of Habeas Corpus in Death Penalty Cases—H.B. 1646

by Representative Gallego—Senate Sponsor: Senator Ellis

The Code of Criminal Procedure gives the Court of Criminal Appeals the power to permit more than one writ of habeas corpus to be heard by the trial court for capital convictions in certain narrow circumstances. The state provides compensation for attorneys who represent indigent petitioners for their initial writ. In cases in which the Court of Criminal Appeals has found that there is sufficient evidence to justify allowing an inmate to file a successor petition, the state does not reimburse the attorney of an indigent petitioner who then proceeds before the trial court on a subsequent writ of habeas corpus. This bill:

Requires the convicting court to appoint for consideration of a subsequent application the attorney who represented the applicant in the proceedings, if the attorney seeks the appointment; the office of capital writs, if the office accepts the appointment; or counsel from a list of competent counsel, if the office of capital writs did not originally represent the applicant and does not accept or is prohibited from accepting the appointment.

Provides that regardless of whether the subsequent application is ultimately dismissed, compensation and reimbursement of expenses for appointed counsel shall be provided, including compensation for time previously spent and reimbursement of expenses previously incurred with respect to the subsequent application.

Cash Bond Refunds—H.B. 1658

by Representative Yvonne Davis—Senate Sponsor: Senator Whitmire

Current law requires that any cash funds deposited for a bail bond be refunded to the defendant if and when the defendant complies with the conditions of the bond, and upon order of the court. This bill:

Requires that any cash funds deposited for a bail bond, on order of the court, be refunded, after the defendant complies with the conditions of the defendant's bond to any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or the defendant, if no other person is able to produce a receipt for the funds.

Establishment, Modification, and Enforcement of Child Support Obligations—H.B. 1674

by Representative Jim Jackson—Senate Sponsor: Senator Harris

This is an omnibus bill regarding child support that amends multiple sections of the Family Code to clarify, conform, and remove outdated language. This bill:

Increases the period in which an employer must respond to an order or notice regarding the provision of medical support to a child from 30 days to 40 days.

Bars a parent of a child who is 18 years of age or older from transferring or assigning the cause of action to any person, except for an assignment made to the Title IV-D agency under certain Family Code sections.

Authorizes a court or administrative order for child support in a Title IV-D case to be modified to provide for medical support of a child.

Authorizes the movant in a proceeding to enforce child support to attach and update the payment record at a hearing and provides that such record is admissible to prove certain facts regarding payment and arrearages.

Bars a court, in rendering a money judgment in a proceeding to enforce child support, from reducing or modifying the amount of child support arrearages, and authorizes the court to allow a counterclaim or offset.

Expands the definitions of "account" and "financial institution" with regard to child support liens.

Expands the real and personal property subject to a child support lien, including the proceeds from a life insurance policy or annuity contract, the proceeds from the sale or assignment of life insurance or annuity benefits, and property seized and subject to forfeiture under the Code of Criminal Procedure.

Authorizes the Title IV-D agency (the state agency designated under state law to provide services under Part D of Title IV of the federal Social Security Act), after the date of death of an obligor in a Title IV-D case, to levy to an account in a financial institution of which the obligor was the sole owner and sets forth the notice and procedure.

Requires an employer with 50 or more employees, rather than 250 or more, to remit a payment of withheld wages by electronic funds transfer or electronic data interchange and authorizes an employer with fewer than 50, rather than 250, employees to remit payment by such methods.

Requires the Title IV-D agency to maintain a record of the writ to an employer until all support obligations of the obligor have been satisfied or income withholding has been terminated.

Clarifies language regarding the insurance reporting program, under which insurers cooperate with the Title IV-D agency in identifying obligors who owe child support arrearages and are subject to liens for child support arrearages to intercept certain insurance settlements or awards.

Authorizes the Title IV-D agency to establish and administer a payment incentive program to promote payment by obligors who are delinquent in satisfying child support arrearages assigned to the Title IV-D agency.

Requires the payment incentive program to provide to a participating obligor a credit for every dollar amount paid by the obligor on interest and arrearages balances during each month of the obligor's voluntary enrollment in the program.

Requires the Title IV-D agency, in establishing such a program under this section, to adopt certain rules.

Requires a licensing authority that has received notice from certain child support agencies regarding an obligor's failure to pay child to refuse to accept an application for issuance of a license from the obligor.

Authorizes the Title IV-D agency to modify an existing order for child support to provide medical support for a child if the existing order does not provide health care coverage.

Provides that a benefit or right assigned by an insured, owner, or annuitant after a child support lien notice has been filed against the insured, owner, or annuitant by the Title IV-D agency continues to be subject to the child support lien after the date of assignment, including arrearages that accrue after the date of assignment.

Authorizes the Office of the Attorney General (OAG) to obtain from the Department of Public Safety of the State of Texas (DPS), the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information relating to a person who owes child support in a Title IV-D case for the purposes of locating that person and establishing, modifying, or enforcing a child support obligation against that person.

Authorizes the Title IV-D agency to file a petition setting forth a claim to the excess proceeds of a tax sale.

Sets the priority of a claim by the Title IV-D agency for child support arrearages to the proceeds from the sale of contraband forfeited under the Code of Criminal Procedure.

Representation of Indigent Defendants—H.B. 1754

by Representative Gallego—Senate Sponsors: Senators Wentworth and Ellis

The state has accrued approximately \$30 million from dedicated fees for indigent defense in the 10 years since the Fair Defense Act (FDA) was enacted. The number of defendants receiving appointed counsel has increased by 45 percent since 2002. The Task Force on Indigent Defense (task force) developed or approved reforms found in H.B. 1754. This bill:

Establishes the Texas Indigent Defense Commission (commission) as a permanent standing committee of the Texas Judicial Council (TJC).

Requires the commission to submit an annual report to the governor, lieutenant governor, speaker of the house of representatives, and TJC.

Requires the commission to submit an annual detailed report of all expenditures to the Legislative Budget Board and TJC.

Requires counties to report to the commission every two years a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel, in accordance with the Code of Criminal Procedure.

Requires counties to report on a monthly, quarterly, or annual basis, the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county.

Requires the commission to provide technical support to assist counties in improving their indigent defense systems; to distribute in the form of grants any appropriated funds; and to monitor each county that receives a grant and enforce compliance with the conditions of the grant.

Prohibits a county from reducing the amount of funds provided for indigent defense services in the county.

Requires each legal clinic or program in the state that is operated by a law school and that receives financial support from the commission to submit to the commission an annual report regarding criminal cases in which the clinic or program provided legal services to an indigent defendant; in which the court of criminal appeals overturns a conviction; or the governor issues a pardon based on actual innocence.

Authorizes the commissioners court of any county to create a department of the county or by contract to designate a nonprofit corporation to serve as a public defender's office.

Authorizes the commissions court of two or more counties to enter into a written agreement to jointly create or designate and jointly fund a regional public defender's office.

Authorizes the commissioners court of a county or the commissioners courts of two or more counties to establish an oversight board for a public defender's office created or designated.

Authorizes the commissioners court of any county to appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program.

Authorizes the commissioners court of two or more counties to enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a program.

Prohibits an attorney's fee from being paid until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or the director of the program and until the judge or director approves the payment.

Abolishes the task force and transfers the powers, duties, obligations, rights, contracts, records, personnel, property, and unspent appropriations of the task force to the commission.

Service of Process at the Registered Office of Certain Registered Agents—H.B. 2047

by Representative Lewis—Senate Sponsor: Senator Uresti

Under current law, civil papers served to a corporation must be personally served to a president, vice-president, or registered agent of the corporation. Many corporations and other entities elect to appoint a separate corporation as their registered agent to receive civil process on behalf of the corporation. This bill:

Requires that a registered agent that is an organization to have an employee available at the registered office during normal business hours to receive service of process, notice, or demand.

Provides that any employee of the organization may receive service at the registered office.

Writs of Habeas Corpus in Mental Health Cases—H.B. 2096

by Representative Thompson—Senate Sponsor: Senator Ellis

The Health and Safety Code does not name a court of competent jurisdiction to receive and rule upon a writ of habeas corpus in mental health cases. This bill:

Grants the court of appeals, in the county in which the order is entered, jurisdiction to receive and rule upon writs of habeas corpus in mental health cases.

Admissibility of Statements by a Child in Juvenile Justice or Criminal Proceeding—H.B. 2337

by Representative Gallego—Senate Sponsor: Senator Uresti

Organized crime groups reportedly sometimes use minors for the purpose of engaging in illegal activities. The issue is reportedly pronounced along the United States-Mexico border, where minors illegally cross into the United States while carrying drugs, weapons, or other illicit material. It may be difficult to prosecute certain criminal groups due to the current structure of Texas laws governing the admissibility of child statements in certain courts. This bill:

Provides that the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if the statement is voluntary and has a bearing on the credibility of the child as a witness; or is recorded by an electronic recording device, including a device that records images, and is obtained in another state in compliance with the laws of that state or this state; or by a federal law enforcement officer in this state or another state in compliance with the laws of the United States.

Creation of Parental Rights Advisory Panel—H.B. 2367

by Representatives Parker and Hochberg—Senate Sponsor: Senator Uresti

Under current law, if there is no a court order for possession of or access to a child, a parent may deprive the child's other parent of his or her parental rights by taking a child without the other parent's knowledge or by not allowing the other parent to see or communicate with the child. This bill:

Establishes the Parental Rights Advisory Panel (panel) to study and make recommendations to the legislature relating to a parent's right to possession of or access to the parent's child, including interference with that right by the other parent when there is no effective or pending court order for possession of or access to a child and the party allegedly interfering with the rights of a parent is unaware of plans by the parent to seek such an order.

Requires the panel to specifically address the desirability of potential Texas legislation, including:

- clarifying a parent's rights to possession of or access to a child in the absence of a current or pending court order for possession of or access to the child;
- creating the offense of depriving a parent of possession of or access to a child in the absence of a current or pending court order for possession of or access to the child;
- implementing measures that allow for the establishment of orders of possession of or access to a child while protecting the rights and safety of victims of family violence and the families of the victims; and
- requiring schools to notify the other parent if one parent unenrolls a child from school.

Provides that the panel consists of nine members appointed by the governor.

Requires the governor to designate one appointee as the presiding officer.

Requires the governor to appoint members to the panel not later than December 31, 2011.

Requires the panel to meet not later than the 30th day after the date the initial appointments are made and to meet regularly as necessary at the call of the presiding officer.

Provides that panel members are not entitled to reimbursement of expenses or to compensation.

Requires the panel to submit to the legislature a report outlining the results of its studies and its recommendations for legislation not later than December 31, 2012.

Providing Copy of Final Decree Of Dissolution of Marriage to Certain Parties—H.B. 2422

by Representative Thompson—Senate Sponsor: Senator Harris

Under current law, a clerk of a court is required to mail a copy of a final decree of dissolution of a marriage to a party who waived service of process. This bill:

Requires the clerk of the court, once a final decree of dissolution of a marriage is signed, to mail notice to a party who waived service of process notifying the person that the order has been signed.

Requires that the notice state that a copy of the order is available at the clerk's office and the physical address of that office.

Access to Child's Medical Records by Certain Persons—H.B. 2488

by Representative Scott—Senate Sponsor: Senator Harris

In a suit affecting the parent-child relationship, the judge appoints a guardian *ad litem*, attorney *ad litem*, and/or amicus attorney to represent the children involved. Current law provides that the judge must issue an order authorizing such representatives to access the child and any information relating to the child. However, there is some confusion regarding whether medical and mental health care providers may provide access to a child's relevant medical, mental health, or drug or alcohol treatment records under the federal Health Insurance Portability and Accountability Act (HIPAA). This bill:

Requires the custodian of a medical, mental health, or drug or alcohol record, without requiring a further order or release, to release the record to the person authorized to access such record.

Provides that confidential drug or alcohol treatment records may be released only in compliance with federal law.

Provides that the disclosure of a confidential record does not affect the confidentiality of that record.

Prohibits a person who receives access to confidential records from disclosing the record further without a court order or release.

Provides that the requirements of Section 159.008 (Physician Fees for Information), Occupations Code, apply.

Requires that the records be destroyed when the appointment is terminated.

Assistance For Certain Persons During Administration of Decedent's Estate—H.B. 2492

by Representative Naishtat—Senate Sponsor: Senator Uresti

The Texas Probate Code not does currently authorize assistance to incapacitated adult children pending the settlement of the estate of a deceased parent. There are current provisions providing for a family allowance in the form of maintenance and support for the surviving spouse and minor children of the decedent during the pendency of probate, but these provisions do not reference incapacitated adult children. This bill:

Provides for the maintenance and support of incapacitated adult children of the decedent during probate by amending the following provisions of the Texas Probate Code to include adult incapacitated children:

- Sections 139, 140, and 143, regarding administration of small estates; and
- Sections 271, 272, 273, 274, 275, 276, 286, 287, 288, 290, 291, and 292, regarding the setting apart of

homestead and other exempt property and the fixing of a family allowance.

Makes similar changes to the Estates Code regarding the setting aside of a homestead or exempt property and the fixing and payment of a family allowance to include the maintenance and support of incapacitated children.

Provisions of the Texas Probate Code—H.B. 2759

by Representative Hartnett—Senate Sponsor: Senator Duncan

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law, if practicable, to promote the purpose of making the statutes more accessible, understandable, and usable without altering the sense, meaning, or effect of the law. This bill:

Provides nonsubstantive revision of provisions of the Texas Probate Code relating to durable powers of attorney, guardianships, and other related proceedings and alternatives, and the redesignation of certain other provisions of the Texas Probate Code, including conforming amendments and repeals.

Unauthorized Duplication, Recording, or Operation of Recording Device—H.B. 3125 [Vetoed]

by Representative Thompson—Senate Sponsor: Senator Patrick

The widespread use and increasing quality of cell phone cameras, flip video units, and other hand-held devices has increased the opportunity for unauthorized recordings of live events. In some cases, the recordings may be made by a person who is not bound by a contract, but who is known to either the artist or promoter or to the owner of the venue. This bill:

Defines "artist," "live entertainment event," "live performance," and "promoter."

Requires a promoter and an artist, regarding a contract for the artist's performance at a live entertainment event, to comply with the terms of the contract regarding the distribution of recording revenue or event proceeds between the promoter and the artist and to agree to and secure permission for the recording of the live entertainment event in writing before the event is recorded.

Staying Recognition or Enforcement of a Foreign Country Judgment—H.B. 3174

by Representatives Madden and Van Taylor—Senate Sponsor: Senator Harris

It has been reported that Texas residents have suffered substantial investment losses arising from offshore investment scams. These Texas residents may be subjected to judgments issued by foreign tribunals lacking adequate legal due process. This bill:

Entitles the party against whom recognition or enforcement of a foreign country judgment is sought, prior to a court's recognition or enforcement of such judgment, to de novo review by a Texas court to determine whether a party seeking recognition or enforcement of a foreign country judgment has violated The Securities Act, Article 581-1 et seq., Texas Civil Statutes (Securities Act), or Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

Requires a party seeking de novo review to file with the court a verified pleading asserting a violation of the Securities Act or Chapter 17 with 30 days after the date of service of the notice of filing of a foreign country judgment with the court for recognition or enforcement.

Provides that such a pleading operates as a stay of the commencement or continuation of a proceeding and that the stay continues until the court completes its de novo review and renders a final judgment.

Provides that a finding by a court of a violation of the Securities Act or Chapter 17 is a sufficient ground for nonrecognition of a foreign country judgment.

Provides that this Act applies to a foreign country judgment involving a contract or agreement for a sale, offer for sale, or sell as defined by the Securities Act, or investment, that imposes an obligation of indemnification or liquidated damages upon a Texas resident.

Attorney *Ad Litem* Requirements for Meeting With a Child—H.B. 3314

by Representative Carter—Senate Sponsor: Senator Nelson

Current law sets out the duty of an attorney *ad litem* appointed for a child to meet with the child or individual with whom the child resides before each court hearing. This bill:

Requires an attorney *ad litem*, if the child or individual is not present at the court hearing, to file a written statement with the court that the attorney *ad litem* has complied with the meeting requirements.

Missing Children—H.B. 3439

by Representative Raymond—Senate Sponsor: Senator Rodriguez

Under current law, Section 63.001(4), Code of Criminal Procedure, defines "missing child." One issue is when a parent removes a child when there is no custody order in place. This bill:

Redefines "missing child" to include a child taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child, unless the taking or retention of the child was prompted by the commission or attempted commission of family violence against the child or the actor.

Expands Section 25.03 (Interference With Child Custody), Penal Code, to make it an offense to take or retain a child younger than 18 years of age outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person.

Makes it an affirmative defense to prosecution that the taking or retention of the child was pursuant to a valid order providing for possession of or access to the child; or notwithstanding any violation of a valid order providing for possession of or access to the child, the actor's retention of the child was due only to circumstances beyond the actor's control, and the actor promptly provided notice or made reasonable attempts to provide notice of those circumstances to the other person entitled to possession of or access to the child.

Provides an exemption if, at the time of the offense, the person taking or retaining the child was entitled to possession of or access to the child and was fleeing the commission or attempted commission of family violence against the child or person.

Use of an Unsworn Declaration—H.B. 3674

by Representative Eiland—Senate Sponsor: Senator Duncan

Federal law permits the use of unsworn declarations. Texas law only allows inmates in the Texas Department of Criminal Justice (TDCJ) or a county jail to provide an unsworn declaration in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by statute or required by a rule, order, or requirement adopted as provided by law. This bill:

Strikes the provision limiting the use of such unsworn declarations to inmates.

Requires the declaration to be in writing and signed by the person making the declaration as true under penalty of perjury.

Sets forth the form of such declaration.

Court's Authority to Order Extended Outpatient Mental Health Services—S.B. 118

by Senator Uresti—House Sponsors: Representatives Menendez and Naishtat

Under current law, to be eligible for extended involuntary outpatient mental health services, an individual must have had at least 60 consecutive days of court-ordered inpatient mental health services within the preceding 12 months. However, because of limited mental health resources, fewer consumers remain at a mental health facility for court-ordered inpatient mental health services in excess of 60 consecutive days. This bill:

Authorizes a judge to order extended outpatient mental health services to a patient who has received court-ordered outpatient mental health services during the preceding 60 days under the Texas Mental Health Code, or Subchapter D (Procedures after Determination of Incompetency) and Subchapter E (Civil Commitment: Charges Pending), of Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.

Requires an application for extended outpatient mental health services to state that the person has received court-ordered inpatient mental health services or court-ordered outpatient mental health services under such provisions of the Texas Mental Health Code or Code of Criminal Procedure for a total of at least 60 days during the preceding 12 months.

Procedures in Certain Suits Affecting the Parent-Child Relationship—S.B. 218

by Senator Nelson—House Sponsor: Representative Dukes

This bill makes certain reforms to the state's foster care system to incorporate increased protections of children who are victims of abuse, neglect, or exploitation. This bill:

Prohibits the Department of Family and Protective Services (DFPS), on closing a case, from entering into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

Provides that this prohibition does not apply to an agreement that is entered into by a parent or other adult in certain specified situations, such as following the removal of a child.

Requires DFPS to develop policies to guide caseworkers in the development of case closure agreements.

Requires DFPS, if it discovers during an investigation that a child younger than 11 years of age has a sexually transmitted disease, to appoint a special investigator to assist in the investigation of the case and file an original suit requesting an emergency order for possession of the child unless DFPS determines, after taking certain specified actions, that emergency removal is not necessary for the protection of the child.

Requires DFPS to work with law enforcement to obtain a search warrant to require an individual DFPS reasonably believes may have sexually abused the child to undergo medically appropriate diagnostic testing for sexually transmitted diseases.

Authorizes DFPS to file an application for a protective order on behalf of the child instead of or in addition to obtaining a temporary restraining order or to assist a parent or other adult with whom a child resides in obtaining a protective order.

Requires that an original family service plan be developed jointly by the child's parents and a DFPS representative or other authorized agency, including informing the parents of their rights in connection with the service plan process.

Requires such plan to note if a parent is not able or willing to participate in the development of the plan.

Requires DFPS to work with the parents to jointly develop any amendment to the service plan, including informing the parents of their rights in connection with the amended service plan process.

Authorizes a parent to file a motion with the court at any time to request a review and modification of the amended service plan

Provides that an amended service plan remains in effect until superseded by a later-amended service plan or modified by the court.

Requires a court, after reviewing the original or amended service plan and making any changes or modifications it deems necessary, to incorporate the service plan into the orders of the court.

Requires DFPS to collect and report service and outcome information for certain current and former foster care youth for use in the federal National Youth in Transition Database.

Updates statutes by changing certain references to the Department of Protective and Regulatory Services to DFPS.

Provides that DFPS is entitled to obtain criminal history record information that relates to a person who is an employee of or volunteer at, or an applicant for employment with or to be a volunteer at, an entity that provides supervised independent living services to a young adult receiving extended foster care services from DFPS; or a person 14 years of age or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult receiving extended foster care services from DFPS.

Requires DFPS caseworkers to receive training relating to the benefits of using a protective order to protect a child as an alternative to removing the child from the child's home.

Waives fees for the issuance of a driver's license if that person is younger than 18 years of age and in the managing conservatorship of DFPS; or at least 18 years of age, but younger than 21 years of age, and resides in a foster care placement, the cost of which is paid by DFPS.

Requires DFPS to implement a redesign of the foster care system in accordance with the recommendations contained in DFPS's December 2010 Foster Care Redesign report.

Requires that the redesign be implemented with the understanding that the individual needs of a child are paramount and that not all indicators are appropriate for every child.

Authorizes the Health and Human Services Commission to use payment rates for foster care under the redesigned system that are different from those used on the effective date of this Act for 24-hour residential child care.

Provides that payment rates for foster care under the redesigned system may include incentive payments for superior performance, as well as funding for additional services provided to families historically included in 24-hour residential child care rates.

Requires that the final implementation of the foster care redesign include a payment system based on performance targets.

Provides that the payment rates under foster care redesign may not result in total expenditures for any fiscal year during the 2012-2013 fiscal biennium that exceed the amounts appropriated by the 82nd Legislature for foster care and other purchased services, except to the extent that any increase in total foster care expenditures is the direct result of caseload growth.

Guardianships and Assessment of Wards—S.B. 220

by Senator Nelson—House Sponsor: Representative Naishtat

This bill makes a number of procedural reforms to the guardianship system. This bill:

Clarifies who must hold a guardianship certificate.

Requires the Health and Human Services Commission (HHSC), in computing the applied income of a recipient of medical assistance, to deduct an additional personal needs allowance from the earned and unearned income of the recipient or, if applicable, the recipient and the recipient's spouse, for compensation and costs ordered to be deducted under the Texas Probate Code, and sets forth when such deduction becomes effective.

Sets forth how HHSC must compute the applied income of a recipient of medical assistance and deduct the allowance.

Requires the HHSC executive commissioner to adopt rules providing a procedure by which a recipient of medical assistance for whom amounts are ordered deducted under the Texas Probate Code may submit to HHSC a copy of the court order to receive a deduction of those amounts from the recipient's income.

Bars HHSC from permitting a deduction for the additional personal needs allowance for compensation and costs ordered to be deducted under the Texas Probate Code if the order is issued after the recipient of medical assistance dies.

Expands the ability of the Department of Aging and Disability Services (DADS) to obtain financial and medical records related to the provision of guardianship services by DADS.

Authorizes DADS, to the extent consistent with its policies and procedures, to release on request confidential information in the record of an individual who is assessed by DADS or is a former ward of the department to the individual, the individual's guardian, or an executor or administrator of the individual's estate.

Requires DADS to edit the information to protect the identity of the reporter to the Department of Family and Protective Services and to protect any other individual whose life or safety may be endangered by the release.

Provides that a release of such information does not constitute a release for purposes of waiving the confidentiality of the information released.

Defines "volunteer."

Requires DADS to encourage the involvement of volunteers in guardianships in which DADS serves as guardian of the person or estate, or both.

Requires DADS to identify issues and tasks with which a volunteer could assist in a guardianship.

Authorizes a volunteer to provide life enrichment activities, companionship, transportation services, and other services to or for the ward in a guardianship, except for those services that would require the volunteer to be certified as a guardian.

Requires the citation stating that the application for guardianship has been filed to contain a clear and conspicuous statement informing interested persons of the right to be notified of any or all motions, applications, or pleadings relating to the application or any subsequent guardianship proceeding involving the ward.

Requires the applicant to mail a copy of the application for guardianship and a notice containing the required information to each relative within the third degree by consanguinity, if the proposed ward's spouse and each of the proposed ward's parents, adult siblings, and adult children are deceased or there is no spouse, parent, adult sibling, or adult child.

Provides that a ward who retains certain powers or a proposed ward with capacity to contract may retain an attorney who holds a guardianship certificate to represent the person's interests in a guardianship matter instead of having those interests represented by an attorney *ad litem*.

Authorizes the court, if the court finds that the ward or the proposed ward has capacity to contract, to remove an attorney *ad litem*.

Clarifies the definition of "applied income."

Authorizes a court that appoints a guardian for a recipient of medical assistance who has applied income to order certain expenses be deducted as an additional personal needs allowance in the computation of the recipient's applied income under the Human Resources Code, and sets forth the period when such deductions may begin.

Requires an application for appointment of a guardian to include the names and addresses of the proposed ward's living relatives who are related to the proposed ward within the third degree by consanguinity if each of the proposed ward's parents and adult siblings are deceased.

Provides that an individual volunteering with a guardianship program or with DADS is not required to be certified to provide guardianship services or certain other services on behalf of the program or DADS.

Authorizes the removal of guardians who engage in conduct that would be considered abusive, neglectful, or exploitive under the Human Resources Code.

Requires the appointment of a guardian *ad litem* and an attorney *ad litem* in certain guardianship removal proceedings and allows one person to serve in both roles unless there is a conflict.

Provides that a successor guardian has the rights and powers of the removed guardian.

Provides that the appointment of a successor guardian does not preclude an interested person from filing an application to be appointed guardian of the ward for whom the successor guardian was appointed.

Requires a court to hold a hearing on an application filed in such circumstances and authorizes the court, at conclusion of the hearing, to set aside the appointment of the successor guardian and appoint the applicant as the ward's guardian if the applicant is not disqualified and after considering other requirements, as applicable.

Authorizes the court, if it sets aside the appointment of the successor guardian, to require the successor guardian to prepare and file, under oath, an accounting of the estate and to detail the disposition the successor has made of the estate property.

Protective Orders for Stalking Victims—S.B. 250

by Senator Zaffirini—House Sponsor: Representative Anchia et al.

Under current law, a court is authorized to render a protective order for certain victims of physical family violence and sexual assault. Victims of stalking are not eligible for this court order. Only in cases where the petitioner is related to the stalker by blood or marriage, has lived with the stalker, or has a child in common with the stalker can the petitioner qualify for a protective order without proof of an arrest. This bill:

Allows a person who is the victim of harassment, a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person to file an application for a protective order without regard to the relationship between the applicant and the alleged offender.

Authorizes the court, if the court finds that there is clear and present danger of sexual assault, stalking, or other harm to the applicant, to enter a temporary *ex parte* order for the protection of the applicant or any other member of the applicant's family or household.

Requires the court, at the close of a hearing on an application for a protective order, to find whether there are reasonable grounds to believe that the applicant is the victim of sexual assault and is younger than 18 years of age or, regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender or stalker.

Requires the court, if the court finds that the applicant is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender or stalking, to issue a protective order that includes a statement of the required findings.

Inclusion of Pets in Protective Orders—S.B. 279

by Senator Davis—House Sponsor: Representatives Laubenberg and Eddie Rodriguez

Victims of domestic violence often refuse to leave an unsafe environment out of concern for a pet they would have to leave behind or are often forced to leave pets behind because they must leave in a hurry or unexpectedly. Often, perpetrators of domestic violence threaten or harm pets as a means to intimidate and gain leverage over their victims. Because pets are deemed property, judges cannot order a person to abstain from killing, injuring, or threatening family pets. This bill:

Allows a court, in a protective order, to prohibit a party from removing a pet, companion animal, or assistance animal from the possession of a person named in the order.

Authorizes a court to prohibit the person found to have committed family violence from harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by an order or by a member of the family or household of a person protected by an order.

Provides that a person commits an offense if, in violation of a condition of bond set in a family violence case or order issued by the court under the Code of Criminal Procedure or the Family Code or by another jurisdiction, the person knowingly or intentionally harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order.

Removal of Guardian of an Incapacitated Person Ordered by a Court—S.B. 481

by Senator Harris—House Sponsor: Representative Jim Jackson

Section 761, Chapter XIII, Texas Probate Code, permits a guardian of an incapacitated person to be removed without notice in an *ex parte* hearing. Under Section 762, Chapter XIII, a guardian who is removed must file for reinstatement with the court within 10 days after removal. This bill:

Requires notice of removal to be personally served on a removed guardian not later than the seventh day after the court signs the order of removal.

Requires such notice to include a copy of the order of removal as well as a statement regarding the removed guardian's right to file for reinstatement under Section 762.

Extends the time period within which the removed guardian may file for reinstatement from 10 days to 30 days.

Requires the court to hold a hearing on an application for reinstatement as soon as practicable after the application is filed, but not later than the 60th day after the date the court signed the order of removal.

Requirements for Authorization Agreement for Nonparent Relative of a Child—S.B. 482

by Senator Harris—House Sponsor: Representative Jim Jackson

Chapter 34 (Authorization Agreement for Nonparent Relative) of the Texas Family Code was enacted in the 81st Legislature, Regular Session, 2009. The chapter provides parents with a procedure for entering into authorization agreements with certain relatives of a child in order to allow a relative to do certain specified acts for their children. There is no limit to the number of authorization agreements that may be in effect for a child at any one time. If only one parent signs the agreement, the other parent must be mailed a copy of the agreement, but there is no requirement to use certified mail. This bill:

Defines "parent."

Permits only one authorization agreement to be in effect at a time for a child.

Requires the inclusion of language in an authorization agreement stating that to the best of the parties' knowledge there is no current, valid authorization agreement regarding the child and setting forth that the authorization agreement is void if there is a prior authorization agreement in effect.

Requires that a copy of the authorization agreement be mailed to a nonsigning parent by certified mail, return receipt requested, or by international registered mail, when applicable.

Requires the parties to the agreement, if they do not receive a response from the nonsigning parent before the 20th day after the first mailing, to mail a second copy of the authorization agreement by first class mail or by international registered mail not later than the 45th day after the date the authorization agreement is executed.

Provides that the notice requirements do not apply if the nonsigning parent does not have court-ordered possession of the child, has committed an act of family violence, is the subject of a protective order, or has been convicted of a criminal offense involving violence or prohibited sexual conduct.

Determinations of Paternity; Creating an Offense—S.B. 502

by Senator West—House Sponsor: Representative Thompson

Under current law, the rescission of an acknowledgment of paternity requires a judicial proceeding. After the period for rescission has passed, a proceeding to challenge the acknowledgment of paternity may be based only on fraud, duress, or material mistake of fact and must be commenced before the fourth anniversary of the date of the filing of the acknowledgment with the bureau of vital statistics (bureau) or, if the signatory was a minor, the earlier of the fourth anniversary after the signatory's 18th birthday or the removal of the signatory's disabilities of minority by operation of law. This bill:

Authorizes a signatory to rescind an acknowledgment of paternity by filing a completed rescission with the bureau, on a form promulgated by the bureau, and sets out the requirements of such rescission.

Provides that there is no fee for such a filing.

Requires the bureau, upon receipt of such rescission, to void the acknowledgment of paternity and amend the child's birth record.

Requires a copy of the rescission form to be sent to certain other parties affected by a rescission, including the Title IV-D agency.

Authorizes any affected party to contest the rescission by filing a proceeding to adjudicate the parentage of the child.

Authorizes a proceeding to challenge the acknowledgment or denial of paternity on the basis of fraud, duress, or material mistake of fact to be commenced any time before the issuance of an order relating to the child.

Makes it a third degree felony for a person to falsify genetic evidence in a proceeding to determine parentage.

Provides that an order excluding a man as the biological father based on falsified genetic evidence is void and unenforceable.

Authorizes the commencement of a proceeding to adjudicate parentage of a child having a presumed father if the court determines that the presumed father was precluded from commencing a parentage action before the time limitation set out in the statute because of the mistaken belief that he was the child's biological father based on misrepresentations.

Probate Fee Exemption for Estates of Certain Persons Killed in the Line of Duty—S.B. 543

by Senator Hegar—House Sponsor: Representative Larry Taylor

Under current law, the estate of a law enforcement officer, a firefighter, or certain other public safety officials who died in the line of duty may be charged a fee for filing the decedent's will for probate or for services rendered by a court in administering the estate. This bill:

Defines "eligible decedent," "line of duty," and "personal injury."

Exempts from probate and administration fees the estates of certain peace officers and others set forth in Section 615.003, Government Code, who die in the line of duty.

Authorizing Facsimile Signatures on Lien Statements in Certain Municipalities—S.B. 577

by Senator Duncan—House Sponsor: Representative Frullo

Each year, the City of Lubbock files between 1,500 and 2,500 environmental liens against property owners who refuse to clean up their property. This action occurs after the property owners receive citations from the City of Lubbock Code Compliance Department. The mayor of Lubbock signs each lien personally and it occupies a significant amount of his time. Currently, only home-rule municipalities with a population of 1.9 million or more can use facsimile signatures for eligible contracts outlined in Section 618.002(3), Government Code. This bill:

Decreases the population threshold authorizing the use of facsimile signatures on a lien statement to 200,000.

Testimony of Children in Criminal Cases—S.B. 578

by Senator Fraser—House Sponsor: Representative Hartnett et al.

The Family Code authorizes a court to appoint a "friend of the court" to coordinate nonjudicial efforts to improve compliance with a court order relating to child support or possession of or access to a child. Courtroom procedures can be confusing and intimidating, and testifying in court can be stressful, particularly for children. This bill:

Requires the court to administer an oath to a child in a manner that allows the child to fully understand the child's duty to tell the truth; ensure that questions asked of the child are stated in language appropriate to the child's age; explain to the child that the child has the right to have the court notified if the child is unable to understand any question and to have a question restated in a form that the child does understand; ensure that a child testifies only at a time of day when the child is best able to understand the questions and to undergo the proceedings without being traumatized; and prevent intimidation or harassment of the child by any party and, for that purpose, rephrase as appropriate any question asked of the child.

Allows the child to have a blanket, toy, or similar comfort item while testifying, or a support person in close proximity if the court finds that the child cannot reasonably testify without the possession of the comfort item or the presence of the support person, and that it is not likely to prejudice the trier of fact in evaluating the child's testimony.

Jurisdiction in Certain Proceedings Brought with Respect to Charitable Trusts—S.B. 587

by Senator Uresti—House Sponsor: Representative Darby

The Office of the Attorney General (OAG) is authorized under Chapter 123 (Attorney General Participation In Proceedings Involving Charitable Trusts) of the Property Code to intervene in any proceeding involving a charitable

trust on behalf of the general interest of the state. Jurisdiction is currently based on where the estate was probated. This bill:

Grants a statutory probate court of Travis County concurrent jurisdiction with another court under Section 4A (General Probate Court Jurisdiction; Appeals) of the Texas Probate Code, in a proceeding brought by OAG alleging breach of a fiduciary duty with respect to a charitable trust created by a will that has been admitted to probate.

Periodic Review of Child Support Guidelines—S.B. 716

by Senator Harris—House Sponsor: Representative Jim Jackson

Under federal law, as a condition for a state having its child support enforcement plan under Part D of Title IV of the federal Social Security Act approved by the secretary of the United States Department of Health and Human Services, the state must establish guidelines for child support awards. Such guidelines must be reviewed at least once every four years to ensure that their application results in the determination of appropriate child support award amounts. Section 111.001, Title 5, Family Code, requires the state's Title IV-D agency to submit a report containing certain information to the standing committees of each house of the legislature having jurisdiction over family law issues for use by the committees in reviewing the guidelines in Chapters 153 (Conservatorship, Possession, and Access) and 154 (Child Support) of the Family Code. This bill:

Requires the state's Title IV-D agency to review the child support guidelines at least once every four years as required under federal law and to submit to the appropriate committees a report with findings and recommendations for any changes to the statutory guidelines.

Requires the initial report to be submitted not later than January 1, 2013.

Termination of the Parent-Child Relationship and Duty to Pay Child Support—S.B. 785

by Senator Harris—House Sponsor: Representative Thompson

Current law authorizes a parent to file a suit for termination of the parent-child relationship in certain circumstances, but does not address situations in which a father has mistakenly signed an acknowledgment of paternity or has been adjudicated as the father of a child without genetic testing. In such circumstances, the man is obligated to pay child support even if he is not the child's genetic father. This bill:

Provides that a child support obligation terminates on the issuance of an order terminating the parent-child relationship between the obligor and the child based on the results of genetic testing that exclude the obligor as the child's genetic father.

Authorizes a man to file a suit for termination of the parent-child relationship if the man acknowledged paternity or was adjudicated to be the father without genetic testing.

Requires the petition to be verified, allege that the petitioner is not the child's genetic father, and state that the man signed the acknowledgment of paternity or failed to contest paternity in a prior proceeding based on misrepresentations that he was the child's genetic father.

Bars the filing of such petition if the man is the child's adoptive father, the child was conceived by assisted reproduction with the man's consent, or the man is the intended father under a court-approved gestational agreement.

Provides that a petition must be filed effective September 1, 2012, not later than one year after the man becomes aware that he is not the father and between the effective date of the Act and said date, without regard to when the man learned that the child was not his biological child.

Requires a court, if the man establishes a meritorious *prima facie* case for termination at a pretrial hearing, to order genetic testing; and if genetic testing excludes the man as the child's genetic father, to terminate the parent-child relationship.

Provides that such termination ends the man's obligation to pay child support in the future, but does not affect the child support obligations existing prior to termination, including the accrual of interest on any back child support owed.

Provides that an order terminating the parent-child relationship does not preclude the initiation of a proceeding to adjudicate whether another man is the child's parent.

Provides that if another man is determined to be the child's father, that man may be obligated to pay child support, but cannot be ordered to pay retroactive child support for any period of time preceding the date the termination of the parent-child relationship is entered.

Authorizes a man seeking to terminate a parent-child relationship to petition the court to continue to allow him rights of possession of and access to the child.

Authorizes the court to order possession of or access to the child only if the court determines that denial of possession or access would significantly impair the child's physical health or emotional well-being.

Authorizes a court, if possession and access is granted, to require any party to participate in counseling with certain mental health professionals.

Provides that during any period of possession of or access to the child that the petitioner has the rights and duties specified by Section 153.074 (Rights and Duties During Period of Possession), Family Code, subject to any limitation specified by the court in its order.

Duration of Protective Order Against Family Violence—S.B. 789

by Senators Harris and Nelson—House Sponsor: Representative Thompson

Under current law, a protective order may be in effect for up to two years. After that time, the person protected by a protective order must go back to court and show that the offender is likely to commit family violence again in order to obtain a new protective order. This bill:

Authorizes a court to issue a protective order exceeding two years if the court finds that the person who is the subject of the protective order:

- caused serious bodily injury to the applicant or a member of the applicant's family or household; or
- was the subject of two or more previous protective orders rendered to protect the person on whose behalf the current protective order is sought; and after a finding by the court that the subject of the protective order has committed family violence and is likely to commit family violence in the future.

Authorizes a person who is the subject of a protective order effective for a period exceeding two years to file a motion requesting that the court review the protective order and determine whether there is a continuing need for the order

not earlier than the first anniversary of the date on which the court rendered an order on a previous motion by the person.

Provides that compliance with the protective order does not by itself support a finding that there is not a continuing need for the order.

Family Violence and Protective Orders—S.B. 819

by Senators Harris and Uresti—House Sponsor: Representative Thompson

The Texas Family Code does not address the issue of a court enforcing a protective order from another court. Under current law, a child in a dating relationship is not a person who may file an application for a protective order under Section 82.002 (Who May File Application), Family Code. Current law also does not provide a judge any discretion with regard to allowing the respondent to give testimony when a person applies for a temporary *ex parte* protective order. This bill:

Authorizes any court in Texas with jurisdiction over protective orders and family violence to enforce a protective order rendered by another court in the same manner as the issuing court, including the authority to enforce the order through contempt.

Provides that a motion for enforcement of a protective order may be filed in any court in the county in which the order was rendered; a county in which the movant or respondent resides; or a county in which an alleged violation of the order occurs.

Authorizes a person in a dating relationship to file an application for a protective order, regardless of whether the person is an adult or a child.

Provides that a statement signed under oath by a child in an application for a temporary *ex parte* protective order is valid if it otherwise complies with the statutes.

Authorizes a judge to recess a hearing on a temporary *ex parte* order in order to contact the respondent by telephone to provide him or her the opportunity to be present for the hearing.

Requires the court to resume the hearing before the end of the working day regardless of whether the respondent is able to be present.

Requires protective orders to include a warning that a violation of the order may be punishable by a fine of up to \$4,000 and/or confinement in jail for up to one year, that an act of family violence may be prosecuted as a separate misdemeanor or felony offense, and that an act prosecuted as a separate felony offense is punishable by confinement in prison for up to two years.

Court Order for Possession of or Access to a Child Under Three Years of Age—S.B. 820

by Senator Harris—House Sponsor: Representative Thompson

Current law does not provide a court with factors to consider in rendering an order for the possession of a child less than three years of age. This bill:

Requires a court, in rendering an order for possession of a child less than three years of age, to consider evidence of all relevant factors.

Sets forth specific factors the court must consider, such as the effect on the child that may result from separation from either party, the availability of the parties as caregivers, and the child's need for continuity of routine.

Requires the court to make findings in support of the order if a party makes an oral request in court during the hearing on the order or files a written request not later than the 10th day after the date of the hearing.

Requires the court to make and enter such findings not later than the 15th day after the date the party makes the request.

Execution Docket and Other Records of Certain Court Clerks—S.B. 886

by Senator Carona—House Sponsor: Representative Darby

Under current law, county clerks maintain a docket relating to execution of judgments and must enter information into such dockets manually. This bill:

Authorizes a clerk to enter and maintain execution docket information in an electronic format that allows the information to be retrieved on the same basis as information would be retrieved manually using an index or cross-index to the docket.

Bars the Texas Supreme Court from amending or adopting rules that conflict with this Act.

Authorizes any local government record data to be stored electronically in addition to or instead of source documents in paper or other media.

Attorney *Ad Litem* Appointed for a Parent or Alleged Father in Certain Suits—S.B. 1026

by Senator Harris—House Sponsor: Representative Naishtat

Sections 107.003 (Powers and Duties of Attorney *Ad Litem* for Child and Amicus Attorney) and 107.004 (Additional Duties of Attorney *Ad Litem* for Child), Family Code, set forth powers and duties of an attorney *ad litem* appointed for a child in suits affecting the parent-child relationship or when a child is removed from his or her home because of allegations of abuse or neglect. In those cases, an attorney may be appointed to represent an indigent parent of the child. However, there are no provisions regarding the powers and duties of an attorney representing a parent or alleged father. This bill:

Sets forth the powers and duties of an attorney appointed to represent a parent, including interviewing the parent and other parties; investigating the facts of the case; and obtaining and reviewing copies of relevant records.

Sets forth the qualifications for such attorney, including familiarity with the American Bar Association's standards of practice for attorneys representing parents in abuse and neglect cases and minimum continuing legal education requirements.

Requires that the continuing legal education be low-cost and available to persons throughout this state, including on the Internet, and focus on the duties of an attorney *ad litem* regarding certain proceedings.

Provides that such attorney is entitled to request clarification from the court if the role of the attorney *ad litem* is ambiguous; request a hearing or trial on the merits; consent or refuse to consent to an interview of the parent by another attorney; receive a copy of each pleading or other paper filed with the court; receive notice of each hearing in the suit; participate in certain case staffing conducted by DFPS; and attend all legal proceedings in the suit.

Sets forth the power and duties of an attorney *ad litem* appointed to represent the interests of an alleged father, including conducting an investigation regarding the petitioner's due diligence in locating the alleged father; interviewing any party or person with significant knowledge of the case who may have information relating to the identity or location of the alleged father; and conducting an independent investigation to identify or locate the alleged father.

Requires an attorney *ad litem* who identifies and locates the alleged father to provide to each party and the court the alleged father's name, address, and other locating information; and if appropriate, request the court's approval for the attorney *ad litem* to assist the alleged father in establishing paternity.

Authorizes a court, if the alleged father is adjudicated to be a parent of the child and is determined by the court to be indigent, to appoint the attorney *ad litem* to continue to represent the father's interests.

Requires an attorney *ad litem* who is unable to identify or locate the alleged father to submit to the court a written summary of the attorney *ad litem*'s efforts to identify or locate the alleged father.

Provides that an attorney *ad litem* appointed for a parent or alleged father is subject to certain disciplinary actions.

Effect of Indexing Notices of *Lis Pendens*—S.B. 1187

by Senator Watson—House Sponsor: Representative Hartnett

Under current law, a *lis pendens* (a legal notice filed on a record signifying that a given piece of property is the subject of a lawsuit) is effective the day it is filed for record with the clerk, although it may not be indexed in the public records until later. This means a potential purchaser of the property may not have notice of the *lis pendens*. This bill:

Provides that a *lis pendens* is effective when the notice is indexed in the public record.

Guardianships and Alternatives to Guardianship for Certain Persons—S.B. 1196

by Senator Rodriguez—House Sponsor: Representative Hartnett

This bill is part of an ongoing review of Texas probate, guardianship, and trust law undertaken by the Real Estate, Probate, and Trust Law Section of the State Bar of Texas. This bill:

Defines "guardianship proceeding" and makes conforming changes.

Requires all guardianship proceedings to be filed and heard in a court exercising original probate jurisdiction.

Provides that a court exercising such jurisdiction also has jurisdiction over all matters related to a guardianship proceeding.

Sets forth which matters are related to a guardianship proceeding both in counties that do and counties that do not have a statutory probate court.

Sets forth when a statutory probate court, a county court at law, or a county court has original jurisdiction of guardianship proceedings.

Provides for the assignment of a statutory probate judge or for the transfer of the contested matter to a district court in a contested guardianship proceeding in a county with no statutory probate court or county court at law exercising original probate jurisdiction.

Sets forth how a contested guardianship proceeding may be transferred to a county court at law in a county in which there is no statutory probate court, but where there is a county court at law exercising original probate jurisdiction.

Provides that when a county has a statutory probate court, that court has exclusive jurisdiction over guardianship matters.

Provides that a statutory probate court has concurrent jurisdiction with a district court in certain matters, such as personal injury or wrongful death.

Clarifies when a statutory probate court may transfer to that court from a district court or county court at law matters related to a guardianship pending in the probate court.

Sets forth the venue for actions regarding personal injury, death, or property damages brought by or against a guardian, ward, or proposed ward.

Provides that the attorney *ad litem's* appointment does not expire upon appointment of temporary guardian, unless the court orders the termination or expiration of the attorney *ad litem's* appointment.

Authorizes a judge to hold a hearing on a guardianship matter involving an adult ward or proposed adult ward in any suitable location in the county where the matter is pending, unless the ward, proposed ward, or his or her attorney request it be held at the courthouse.

Clarifies contents of the required written certificate completed by a physician or other certified professional that is used to provide evidence of a person's incapacities in a guardianship proceeding.

Deletes the requirement that an inventory of the property held by a ward submitted to the courts also list the co-owners of the property.

Authorizes the complete termination of a guardianship proceeding if all of the assets of the guardianship estate have been transferred to a pooled interest trust subaccount for the ward.

Authorizes a court to allow an attorney *ad litem* appointed to represent a ward in the settlement of a guardianship reasonable compensation to be taxed as costs.

Increases the age of wards whom a guardian may voluntarily admit to an inpatient psychiatric facility from 16 years of age or younger to younger than 18 years.

Authorizes the making of gifts or transfers from the ward's estate to qualify the ward for government benefits to the extent allowed by state and federal law.

Expands the list of persons eligible to apply for the establishment of a management trust or pooled interest trust subaccount to include persons who have only a physical disability and makes conforming changes.

Requires a trustee of a management trust to file initial inventory reports with the court of the properties collected by the trustee in the trust when there is a guardianship proceeding pending in the court on the date that the trust was created.

Provides that a trustee of a management trust is not required to file annual and final accountings with the court when the court creates a trust for the benefit of a person who has only a physical disability.

Sets forth who may apply to a court for the establishment of a subaccount for the benefit of a minor, an incapacitated or allegedly incapacitated person, or a disabled person who is not incapacitated.

Relating to Trusts—S.B. 1197

by Senator Rodriguez—House Sponsor: Representative Hartnett

This bill is part of an ongoing review of Texas probate, guardianship, and trust law undertaken by the Real Estate, Probate, and Trust Law Section of the State Bar of Texas. This bill:

Conforms current law relating to disclaimers regarding an interest in a trust passing as a result of a death with changes in the federal Internal Revenue Code.

Provides that a provision in a trust providing for the forfeiture of an interest in the trust for bringing any court action is void if "just cause" exists for bringing the action.

Authorizes beneficiaries of a trust to waive in writing the notice requirement regarding a trust proposed to be divided or combined with another trust without a judicial proceeding.

Authorizes a guardian of the estate, guardian *ad litem*, or parent of a minor or incapacitated beneficiary to waive such notice on behalf of a beneficiary.

Extends jurisdiction under the Texas Trust Code to include county courts at law.

Expands the venue for an action involving the interpretation and administration of an inter vivos trust created by the settlor or a testamentary trust created by the settlor's will, if the settlor is deceased and an administration of the settlor's estate is pending in this state, to the county in which the administration of the settlor's estate is pending.

Clarifies that the necessary parties to a trust proceeding are the persons designated by name as a beneficiary of the trust, and whose interests have not been previously distributed, extinguished, terminated, or paid.

Requires that a tax required to be paid by a trustee on the trust's share of an entity's taxable income be paid from income to the extent that receipts from the entity are allocated only to income; from principal to the extent that receipts from the entity are allocated only to principal; proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and from principal to the extent that the tax exceeds the total receipts from the entity.

Requires a trustee to adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.

Relating to Decedents' Estates—S.B. 1198

by Senator Rodriguez—House Sponsor: Representative Hartnett

As part of its ongoing review of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas has proposed a number of changes to the statutes regarding decedents' estates. This bill:

Authorizes a county court judge who requests the assignment of a statutory probate court judge to hear a contested matter in a probate proceeding, either on the judge's own motion or on the motion of a party, to request that the statutory probate court judge be assigned to the entire proceeding.

Provides that a statutory probate court judge assigned to a contested matter in a probate proceeding or to the entire proceeding has the jurisdiction and authority granted to a statutory probate court by state law.

Requires a statutory probate court judge assigned to the entire probate proceeding to, on resolution of the contested matter in the proceeding, including any appeal, return the entire proceeding to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

Provides that if only the contested matter in a probate proceeding is assigned to a statutory probate court judge, or if the contested matter in a probate proceeding is transferred to a district court, the county court continues to exercise jurisdiction over the management of the estate, other than the contested matter.

Clarifies that a statutory probate court has concurrent jurisdiction with the district court in an action involving certain charitable trusts.

Sets forth the proper venue in any cause of action related to a probate proceeding pending in a statutory probate court; an action by or against a personal representative for personal injury, death, or property damages; a proceeding to determine a decedent's heirs; a proceeding brought by the attorney general alleging breach of a fiduciary duty by a charitable entity or a fiduciary or managerial agent of a charitable trust; and a proceeding to admit a will to probate or for the granting of letters testamentary or of administration.

Clarifies proper venue when two or more courts have concurrent venue of a probate proceeding or when there are probate proceedings involving the same estate commenced in more than one county.

Authorizes a court in which an application for a probate proceeding is filed to determine venue for the proceeding and for any matter related to the proceeding, and provides that such determination is not subject to collateral attack.

Provides protection for certain bona fide purchasers of real property who rely on a probate proceeding.

Sets forth the procedures for transfer of probate proceedings to another county in which venue is proper; for want of venue; and when the transfer would be in the best interest of the estate, or, if there is no administration of the estate, the decedent's heirs or beneficiaries under the decedent's will.

Provides that all orders entered in connection with a probate proceeding that is transferred to another county are valid and must be recognized in the court to which the proceeding is transferred if the orders were made and entered in conformance with state law.

Authorizes an independent executor, if there are no unpaid debts, except for secured debts, taxes, and administration expenses, at the time the inventory is due, to file with the court clerk, in lieu of the inventory, appraisal, and list of claims, an affidavit stating that all debts, except for secured debts, taxes, and administration expenses, are paid and that all beneficiaries have received a verified, full, and detailed inventory and appraisal that sets forth the filing and notice requirements regarding such affidavit; authorizes any person interested in the estate to apply to the court and for the court, in its discretion, to compel the independent executor to provide a copy of the inventory, appraisal, and list of claims to the interested person; and makes conforming changes throughout the statutes regarding such affidavit.

Clarifies the period in which a beneficiary must file a written memorandum of disclaimer disclaiming a present interest.

Authorizes the following persons to bring a determination of heirship action a trustee when necessary to determine the heirs of a beneficiary of the trust; and party seeking the appointment of an independent administrator.

Provides that a will containing certain statutory language may be simultaneously executed, attested, and made self-proved before an officer authorized to administer oaths under the laws of this state, making the testimony of the witnesses in the probate of the will unnecessary;

Voids any provision in a will providing for forfeiture of an interest in the will for bringing any court action if just cause exists for bringing the action and the action was brought in good faith.

Provides that if the other parent of a pretermitted child is not the surviving spouse of the testator, the portion of the testator's estate to which the pretermitted child is entitled may not reduce the portion of the testator's estate passing to the testator's surviving spouse by more than one-half.

Bars a court from severing or bifurcating a proceeding if more than one application for the probate of a will or for the appointment of a general personal representative has been filed before an application has been heard.

Provides that if a will is properly executed with a self-proving affidavit that complies with the laws of the testator's domicile at the time of execution, the will be considered self-proved for purposes of probating it in Texas, even if the affidavit does not conform to the Texas form of self-proving affidavit.

Sets forth the requirements for a self-proved will.

Clarifies who is a beneficiary entitled to notice after a will is probated.

Sets forth when a personal representative is not required to give the notice to certain persons.

Sets forth what is required in a notice, including a summary of the gifts to the beneficiary under the will and certain procedural information regarding the probate of the will.

Bars a court from appointing an independent administrator to serve in an intestate administration until the parties seeking appointment of the independent administrator have been determined, through a proceeding to declare heirship to constitute all of the decedent's heirs

Allows a natural guardian of a minor incapacitated child who is a distributee and who is not under guardianship to consent to independent administration where there is no conflict of interest between the guardian and the child.

Authorizes the trustee or cotrustee for a trust beneficiary who is considered to be a distributee and who is an incapacitated person to file the application or give the consent for independent administration in certain circumstances.

Clarifies the authority of an independent executor or administrator to sell assets in the absence of an express grant in the will and the power to take certain actions without court approval.

Confirms that an independent representative may sell estate property without a court order under the same circumstances that a dependent representative could sell with a court order.

Provides protection to parties purchasing estate property who rely on the apparent authority of an independent representative in certain circumstances.

Addresses the payment of claims of secured creditors in an independent administration, including notice requirements and the rights of holders of matured secured claims, other secured claims, and unsecured claims against an estate; enforcement of such claims; the tolling of the statute of limitations under certain specified circumstances; and the provision of bond by the distributees.

Authorizes the removal of an independent executor who becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

Authorizes an administrator to close an independent administration by filing an affidavit stating that all known debts have been paid or paid to the extent of the assets of the estate, that all remaining assets have been distributed, and setting forth the names and addresses of the distributees.

Sets forth the procedure for such filing.

Provides that independent administrations are closed 30 days after the date of the filing of a closing report unless an interested party files an objection within the period.

Provides that the filing of a notice of closing estate does not release the sureties on the bond of an independent executor.

Revises the definition of "P.O.D. (payee)" to include a charitable organization, and defines "charitable organization."

Confirms that a right of survivorship will not be presumed from joint ownership or joint tenancy of multi-party accounts and community property.

Amends the definition of "divorced individual" to include an individual whose marriage has been declared void.

Provides upon dissolution of a marriage that certain non-testamentary transfers and appointments in a fiduciary or representative capacity to any relative of the former spouse who is not a relative of the divorced individual are revoked.

Provides certain protections to a bona fide purchaser or a person who receives in partial or full satisfaction of an enforceable obligation from any relative of the former spouse who is not a relative of the divorced individual.

Reduces the period a former or retired judge of a statutory probate court must have served as an active judge to be eligible for assignment to a statutory probate court from 96 months in a district, statutory probate, statutory county, or appellate court to 72 months.

Requires OAG to defend the presiding judge of the statutory probate courts in any action or suit in any court in which the judge is a defendant because of his or her office as judge at the judge's request.

Authorizes any person capable of making a will to provide in the will that action related to the settlement of the person's estate will be limited to the probating and recording of the will and the return of an inventory, appraisal, and list of claims of the person's estate and that no independent administration of the estate may be allowed.

Provides that if a decedent's will names an executor but the will does not provide for independent administration, all of the distributees of the decedent may collectively designate in the application for probate of the will that the executor named in the will serve as independent executor; and no other action be had in the probate court other than the probating and recording of the decedent's will and the return of an inventory, appraisal, and list of claims of the decedent's estate.

Requires the probate court in such a case to enter an order granting independent administration and appointing the person, firm, or corporation designated in the application as independent executor, unless the court finds that it would not be in the best interest of the estate to do so.

Authorizes all of the distributees, if no executor is named in the decedent's will or no executor is qualified or willing to serve, to collectively designate in the application for probate of the decedent's will a qualified person, firm, or corporation to serve as independent administrator and request that no other action be had in the probate court other than the probating and recording of the decedent's will and the return of an inventory, appraisal, and list of claims of the decedent's estate.

Requires the probate court in such a case to enter an order granting independent administration and appointing the person, firm, or corporation designated in the application as independent administrator, unless the court finds that it would not be in the best interest of the estate to do so.

Authorizes all of the distributees of a decedent dying intestate to collectively designate in the application for administration of the decedent's estate a qualified person, firm, or corporation to serve as independent administrator and request that no other action be had in the probate court other than the probating and recording of the decedent's will and the return of an inventory, appraisal, and list of claims of the decedent's estate.

Requires the probate court in such a case to enter an order granting independent administration and appointing the person, firm, or corporation designated in the application as independent administrator, unless the court finds that it would not be in the best interest of the estate to do so.

Bars the court from appointing an independent administrator to serve in an intestate administration until the parties seeking appointment of the independent administrator have been determined through a proceeding to declare heirship to constitute all of the decedent's heirs.

Sets forth the procedure for establishing distributee consent to the creation of an independent administration, including notice and determining who is a distributee.

Requires the independent executor to enter into a bond, unless the probate court waives bond, and sets forth the bond requirements.

Authorizes the court, if there is no will or the will does not contain language authorizing the personal representative to sell real property, to include in an order appointing an independent executor any general or specific authority regarding the power to sell real property.

Provides that absent proof of fraud or collusion on the part of a judge, no judge may be held civilly liable for the commission of misdeeds or the omission of any required act of any person, firm, or corporation designated as an independent executor or successor independent executor.

Provides that person who declines to serve or resigns as independent executor of an estate may be appointed an executor or administrator of the estate if the estate will be administered and settled under the direction of the court.

Bars further action in the probate court as long as the estate is represented by an independent executor, except as otherwise provided, when an independent administration has been created; the order appointing an independent executor has been entered by the probate court; the inventory, appraisal, and list of claims has been filed by the independent executor and approved by the court or an affidavit in lieu of the inventory, appraisal; and a list of claims has been filed by the independent executor.

Authorizes an independent executor to act without a court order, except as otherwise provided.

Defines "independent executor" regarding the power of sale of estate property.

Sets forth the power of an independent executor power to sell estate property without the court approval or meeting certain procedural requirements.

Protects a purchaser who is not a devisee or heir if the person deals with the independent executor or independent administrator in good faith and certain requirements are met.

Provides that the Act does not limit the authority of an independent executor to take any other action without court supervision or approval with respect to estate assets that may take place in a supervised administration, including the authority to enter into a lease and to borrow money.

Requires an independent executor to set aside and deliver to those entitled any exempt property and allowances for support, and allowances in lieu of exempt property.

Sets forth the duty of an independent executor, including notice requirements and the approval or rejection of claims.

Authorizes any person interested in the estate at any time after the expiration of 15 months after the date that an independent administration was created and the order appointing an independent executor was entered by the probate court to demand an accounting from the independent executor.

Sets forth what must be included in such an accounting.

Sets forth the enforcement procedure in probate court if the independent executor does not comply with a demand for an accounting.

Provides that after an initial accounting has been given by an independent executor, any person interested in an estate may demand subsequent periodic accountings at intervals of not less than 12 months.

Authorizes a court to require an independent executor give bond if it appears at that the independent executor is mismanaging the property, has betrayed or is about to betray the independent executor's trust, or has in some other way become disqualified.

Authorizes a probate court, on its own motion or on motion of any interested person, to remove an independent executor in certain circumstances, including when the independent executor fails to make certain filings or accountings, has been proved guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties, becomes incapacitated, or becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

Sets forth the procedure for removal of an independent executor, including the appointment of a successor independent executor and payment of necessary expenses and disbursements out of the estate.

Sets forth the powers of administrator who succeeds an independent executor, including powers that may be granted by the court.

Authorizes all of the distributees, if the independent executor named in the will is no longer qualified or willing to serve and the will does not name a successor executor or the named successor is unable or unwilling to serve, to collectively apply to the probate court for the appointment of a qualified person, firm, or corporation to serve as successor independent executor.

Requires the court, if the court finds that continued administration of the estate is necessary, to enter an order continuing independent administration and appointing the person, firm, or corporation designated in the application

as successor independent executor, unless the probate court finds that it would not be in the best interest of the estate to do so.

Grants the successor independent executor all of the powers and privileges granted to the successor's predecessor independent executor.

Sets forth who are considered distributees.

Requires a successor independent executor, unless the probate court waives bond on application for waiver, to enter into a bond.

Authorizes a person interested in the estate subject to independent administration at any time after the expiration of two years after the date the court clerk first issues letters testamentary or of administration to any personal representative of an estate to petition the court for an accounting and distribution.

Requires such accounting to include the information that the court considers necessary to determine whether any part of the estate should be distributed.

Requires the court, on receipt of the accounting and after notice to the independent executor and a hearing, to order distribution of the estate by the independent executor to the distributees entitled to the property, unless the court finds a continued necessity for administration of the estate; and distribution of any portion of the estate that the court finds should not be subject to further administration by the independent executor if the court finds there is a continued necessity for administration of the estate.

Authorizes the court, if all the property in the estate is ordered distributed by the court and the estate is fully administered, to order the independent executor to file a final account with the court and enter an order closing the administration and terminating the power of the independent executor to act as executor.

Provides that an independent executor may not be required to deliver tangible or intangible personal property to a distributee unless the independent executor receives, at or before the time of delivery of the property, a signed receipt or other proof of delivery of the property to the distributee.

Prohibits an independent executor from requiring a waiver or release from the distributee as a condition of delivery of property to a distributee.

Sets forth the procedure for the discharge of an independent executor after an estate has been administered and if there is no further need for an independent administration of the estate.

Authorizes an independent executor to file with the court a closing report or a notice of closing of the estate when all of known debts against the estate have been paid to the extent the assets in the independent executor's possession will permit, when there is no pending litigation, and when the independent executor has distributed to the distributees entitled to the estate all remaining assets of the estate, if any.

Sets forth the contents of such closing report or a notice of closing estate.

Provides that the independent administration of an estate is considered closed 30 days after the date of the filing of a closing report or notice of closing estate unless an interested person files an objection with the court within that time.

Provides that if an interested person files an objection within the 30-day period, the independent administration of the estate is closed when the objection has been disposed of or the court signs an order closing the estate.

Sets forth the effect of the closing of an independent administration by filing of a closing report or notice of closing estate, including the termination of the power and authority of the independent executor, the continuing liability of the independent executor for mismanagement or false statements contained in the report or notice, and the release of any bond.

Authorizes the independent executor, if the will does not distribute the entire estate of the testator or provide a means for partition of the estate or if no will was probated, to petition the probate court for either a partition and distribution of the estate or an order of sale of any portion of the estate alleged by the independent executor and found by the court to be incapable of a fair and equal partition and distribution, or both.

Requires that such estate or portion of such estate be partitioned and distributed or sold, or both, in the manner provided for the partition and distribution of property and the sale of property incapable of division in supervised estates.

Authorizes any distributee, after an estate has been fully administered and there is no further need for an independent administration, to file an application to close the administration

Authorizes a court, after citation on the independent executor and on hearing, to enter an order requiring the independent executor to file a closing report closing the administration; terminating the power of the independent executor; and releasing the sureties on any bond the independent executor was required to give.

Sets forth the effect of the closing an independent administration regarding persons owing any money, having custody of any property, or acting as registrar or transfer agent or trustee of any evidence of interest, indebtedness, property, or right that belongs to the estate.

Requires a clerk at any time before the authority of an independent executor has been terminated to issue such number of letters testamentary as requested by the independent executor.

Provides that an independent executor is not required to close the independent administration of an estate under certain provisions.

Arbitration Agreements in Suits for Dissolution of Marriage—S.B. 1216

by Senator Estes—House Sponsor: Representative Hartnett

In many cases a person involved in a dispute has the right to settle the dispute in court, but if both parties agree, the dispute may be settled through arbitration, in which case both parties agree to a contract in which they surrender their right to appear in court. In order for such a contract to be enforceable, the parties must have reached the agreement voluntarily and in the absence of fraud. If evidence can be produced demonstrating that a party signed an arbitration clause as a result of force or fraud, the court will refuse to compel arbitration. This bill:

Requires the court, if a party to a suit for dissolution of a marriage opposes an application to compel arbitration or makes an application to stay arbitration and asserts that the contract containing the agreement to arbitrate is not valid or enforceable, to try the issue promptly and authorizes the court to order arbitration only if the court determines that the contract containing the agreement to arbitrate is valid and enforceable against the party seeking to avoid arbitration.

Establishes that a determination that a contract is valid and enforceable does not affect the court's authority to stay arbitration or refuse to compel arbitration on any other ground provided by law.

Establishes that this legislation does not apply to a court order; a mediated settlement agreement; a collaborative law agreement; a written settlement agreement reached at an informal settlement conference; or any other agreement between the parties that is approved by a court.

Requires the court, if a party to a suit affecting the parent-child relationship opposes an application to compel arbitration or makes an application to stay arbitration and asserts that the contract containing the agreement to arbitrate is not valid or enforceable, to try the issue promptly and authorizes the court to order arbitration only if the court determines that the contract containing the agreement to arbitrate is valid and enforceable against the party seeking to avoid arbitration.

Establishes that a determination that a contract is valid and enforceable does not affect the court's authority to stay arbitration or refuse to compel arbitration on any other ground provided by law.

Establishes that this legislation does not apply to a court order; an agreed parenting plan; a mediated settlement agreement; a collaborative law agreement; or any other agreement between the parties that is approved by a court.

Standards for Attorneys Representing Indigent Defendants in Capital Cases—S.B. 1308

by Senator Seliger—House Sponsor: Representative McClendon et al.

Under current law, in order to be eligible for appointment to represent indigent defendants in both capital cases and appellate cases, an attorney must have not ever been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case. This bill:

Provides that an attorney may request that the regional selection committee, which maintains the list of eligible attorneys, make a determination regarding an attorney's current ability to provide effective representation following a judicial finding that the attorney previously rendered ineffective assistance of counsel in a capital case.

Amends the qualification standards to provide an exception if the local selection committee determines that the conduct underlying a court finding that the attorney rendered ineffective assistance of counsel during the trial or appeal of any capital case no longer accurately reflects the attorney's ability to provide effective representation.

Recording of Certain Proceedings Affecting the Parent-Child Relationship—S.B. 1490

by Senators Uresti and Harris—House Sponsor: Representative Hunter et al.

In 2009, in Bexar County, the father of a child in a custody dispute presented the court with what he falsely claimed were Mexican documents giving him custody of his son. The judge, who did not understand Spanish, granted the father physical custody of the child, and the father was told to appear in court the following week. The father, who had dual citizenship, immediately absconded with the child to a foreign country. This bill:

Requires a record to be made by a court reporter of all proceedings and hearings under Chapter 152 (Uniform Child Custody Jurisdiction and Enforcement Act), Family Code, relating to certain international child custody determinations or to the enforcement of an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention).

Requires a warrant to take physical custody of a child to state the date for the hearing on the petition, provide for the safe interim placement of the child pending further order of the court, and impose conditions on placement of the child to ensure the appearance of the child and the child's custodian.

Authorizes the court if the petition seeks to enforce a child custody determination made in a foreign country or an order for the return of the child made under the Hague Convention to place a child with a parent or family member only if the parent or family member has significant ties to the jurisdiction of the court.

Requires the court, if a parent or family member of the child does not have significant ties to the jurisdiction of the court, to provide for the delivery of the child to the Department of Family and Protective Services.

Makes it a third degree felony for an individual to make a false statement regarding child custody determination made in a foreign country during certain hearings.

Children Who are Missing or are Victims of Offenses—S.B. 1551

by Senators Rodriguez and Uresti—House Sponsors: Representatives Raymond and Gallego

Under current law, Section 63.001(4), Code of Criminal Procedure, defines "missing child." One issue is when a parent removes a child when there is no custody order in place. This bill:

Provides that an offense under Title 5 (Offenses Against the Person), Penal Code, involving a victim younger than 18 years of age, or an offense under Section 25.03 (Interference with Child Custody), Penal Code, that results in bodily injury to a child younger than 18 years of age, may be prosecuted in the county in which an element of the offense was committed, in which the defendant is apprehended, in which the victim resides, or in which the defendant resides.

Expands the definition of "missing child" to include when a child is taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence against the child or the actor.

Expands Section 25.03 (Interference With Child Custody), Penal Code, to make it an offense to take or retain a child outside the United States with the intent to deprive the person entitled to custody of or access to the child of that person's rights to the child and without the person's permission, unless:

- at the time of the offense, the person taking or retaining the child was entitled to possession of or access to the child; and
- was fleeing the commission or attempted commission of family violence, against the child or the person.
- Provides that it is an affirmative defense that:
- the taking or retention of the child was pursuant to a valid court order providing for possession of or access to the child; or
- the retention of the child is due to circumstances beyond the actor's control and the actor promptly notified or made reasonable efforts to notify the other person entitled to possession of or access to the child.

Discretionary Transfer from Juvenile Court to Criminal Court of Certain Offenses—S.B. 1617

by Senator Harris—House Sponsor: Representative Aliseda

Under current law, when a minor commits a crime he or she must be certified as either a minor or an adult for the entire criminal prosecution. If an element of a homicide or intoxication manslaughter occurs after the defendant has been certified as a child, as the death of the victim, the defendant may not be re-certified as an adult for prosecution for homicide or intoxication manslaughter. This bill:

Authorizes a court to reconsider certifying a person who was previously certified as a minor for prosecution stemming from the criminal transaction as an adult for a homicide or intoxication manslaughter charge when if one of the elements of the homicide or intoxication manslaughter had not occurred when the defendant was originally certified as a minor.

Calculation of the Net Resources of a Person Ordered to Pay Child Support—S.B. 1751

by Senator Uresti—House Sponsor: Representative Thompson

Under current law, noncustodial, obligor parents must pay child support in an amount based on the calculation of their net resources. In determining an obligor parent's net resources, current law deducts certain expenses from that parent's gross resources, such as Social Security payments, federal income tax payments, and state income tax payments. This bill:

Adds nondiscretionary retirement plan contributions to the list of deductions from the obligor's gross resources, if the obligor does not pay Social Security taxes.

Defines a nondiscretionary retirement plan.

Fannin County Juvenile Board—S.B. 1886

by Senator Deuell—House Sponsor: Representative Phillips

Currently, the Fannin County Juvenile Board (board) consists of the county judge and the district judges in Fannin County. Under current statute, the board is not subject to the standard requirements pertaining to quarterly meetings, general expenses, reimbursements for job-related expenses, staff, and general duties of a juvenile board. This bill:

Provides that the Fannin County Juvenile Board is subject to Subchapter B (Creation of Juvenile Board in Certain Counties), Chapter 152 (Juvenile Boards), Human Resources Code.

Strikes current language regarding the composition, compensation, and duties of the board and exempting the board from specific sections of the Human Resources Code regarding juvenile boards.

Appointment of Bailiffs in Certain County Criminal Courts of Tarrant County—S.B. 1887

by Senator Harris —House Sponsor: Representative Todd Smith

Currently, the County Criminal Courts of Tarrant County are each served by at least two bailiffs. The judges of Tarrant County Criminal Courts 1 and 2 have the option to appoint one officer to act as bailiff while the sheriff's office is responsible for appointment of the other bailiff. The remaining Tarrant County criminal courts do not have the option to appoint one of the bailiffs. This bill:

Provides that at least two bailiffs will be regularly assigned to Tarrant County Criminal Courts 3, 4, 5, 6, 7, 8, 9, and 10.

Requires the judges of each such criminal court to appoint one bailiff.

Permits a judge of such criminal court to authorize the sheriff to appoint all bailiffs for that court.

Board of Directors of the Trinity Memorial Hospital District—H.B. 460

by Representative White—Senate Sponsor: Senator Ogden

Current law provides that four members of the Trinity Memorial Hospital District's board of directors are required to be present to constitute a quorum and a concurrence of four members is required to conduct business. This bill:

Amends the district's enabling statute to increase the number of directors required to constitute a quorum from four to five and makes a concurrence of five members sufficient for the board to conduct business.

Validation of Certain Acts of Public Improvement Districts—H.B. 707

by Representative Laubenberg—Senate Sponsor: Senator Estes

Section 372 (Improvement Districts in Municipalities and Counties), Subchapter A (Public Improvement Districts), Local Government Code, provides for the municipal creation of public improvement districts, the construction of certain public infrastructure, and the funding of such infrastructure by assessments levied upon property owners located within the boundaries of the public improvement district. Implementation of certain legislation passed pursuant to Section 372 has been problematic because of the absence of detail provided in the legislation. As a result, the Texas attorney general has been reticent to approve the issuance of bonds secured by public improvement district assessments. This bill:

Provides the required detail and validates certain cities' actions undertaken to create a public improvement district, including designation of improvements to be funded by public improvement district, levying of assessments to finance such improvements, and the issuance of bonds to finance such improvements.

East Montgomery County Improvement District—H.B. 737

by Representative Otto—Senate Sponsor: Senator Williams

S.B. 921, 75th Legislature, Regular Session, 1997, created the East Montgomery County Improvement District to promote economic and community development in the area. This bill:

Expands the definition of "venue" to include an arena, coliseum, stadium, or other types of area or facility that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events and for which a fee for admission to the events is charged or is planned to be charged.

Repeals Section 3846.155(c) (relating to requiring that in the election the ballot permit voting for or against a certain proposition relating to a local sales and use tax rate), Special District Local Laws Code.

Dissolution and the Southern Trinity Groundwater Conservation District—H.B. 801

by Representatives Charles Anderson and Beck—Senate Sponsor: Senator Birdwell

The Southern Trinity Groundwater Conservation District (district) is a well-functioning district that demonstrates its commitment to sustainably manage water resources in the area. All other counties in the management area are within a confirmed groundwater conservation district. The district and stakeholders in the district seek to maintain its existence. This bill:

Repeals Section 8821.107 (District Territory Requirements; Dissolution of District), Special District Local Laws Code, to remove the requirement that the district boundaries include at least one county adjacent to McLennan County.

Central Harris County Regional Water Authority—H.B. 960

by Representative Turner—Senate Sponsor: Senator Whitmire

The Central Harris County Regional Water Authority (authority) charges surface water and groundwater pumpage fees to public and private entities within its boundaries. The authority does not have taxing authority, and these fees help finance the water infrastructure needed to implement the surface water conversion requirements of the Harris-Galveston Subsidence District. This bill:

Provides that certain sections of the Water Code relating to groundwater conservation districts and disqualification of directors do not apply to the authority.

Authorizes the authority to bring an action in a district court against a member district or other district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover any fees, rates, charges, assessments, collection expenses, attorney's fees, interest, penalties, or administrative penalties due to the authority or to enforce the authority's rules or orders.

Provides that governmental immunity from suit or liability of a district or other political subdivision is waived for the purposes of an action described in Section 8815.107 (Administrative Penalty; Civil Action; Injunction), Special District Local Laws Code.

Election of the Board of Directors of the Ector County Hospital District—H.B. 969

by Representative Lewis—Senate Sponsor: Senator Seliger

A petition to be placed on the ballot as a candidate for member of the board of directors of the Ector County Hospital District must currently be filed not later than 5:00 p.m. on the 45th day before the date of the election. Although the ballot petition is part of the candidate application process, the remainder of the application is due on the 62nd day before the date of the election. This bill:

Requires that a petition to be placed on the ballot as a candidate for member of the board of directors of the Ector County Hospital District be filed not later than 5 p.m. on the 62nd day, rather than the 45th day, before the date of the election.

Sports and Community Venue District in Reeves County—H.B. 1040

by Representative Gallego—Senate Sponsor: Senator Uresti

Reeves County previously held a venue district election in which voters approved a two percent hotel occupancy tax. However, the election was held within the Pecos city limits, rather than countywide as required by law. A sports and community venue district (district) subsequently was created by concurrent order of the mayor of the town of Pecos and the county judge of Reeves County. More recently, Reeves County passed another countywide initiative relating to the district. This bill:

Provides that the legislature validates and confirms the creation of, and election on, a venue project to finance the restoration and renovation of a venue as of the date of an election held before the effective date of this Act at which the voters of a municipality approved the creation of the venue project and the levy of a two percent increase in the local hotel occupancy tax; and the levy and collection of a two percent increase in the local hotel occupancy tax for a venue project that occurred before the effective date of this Act.

Does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment or has been held invalid by a final court judgment.

Does not validate any governmental act or proceeding that, under the law in effect at the time the act or proceeding occurred, would constitute a criminal offense punishable as a misdemeanor or felony.

Applies only to a district wholly located in a county with a population of less than 15,000.

Authorizes the governing body of each political subdivision that created a district to dissolve the district by adopting a concurrent order.

Requires the assets and liabilities of a dissolved district to be transferred to the county in which the district is located.

Requires the county, after payment of district liabilities, to use the district assets that remain for an approved venue project of the county.

De-Annexation of Land by the Barton Springs-Edwards Aquifer Conservation District—H.B. 1060

by Representative Kleinschmidt—Senate Sponsor: Senator Hegar

In August 2010, Texas Attorney General Greg Abbott issued an opinion specifically dealing with the status of land in one groundwater conservation district that is later included in special legislation creating a different groundwater conservation district. The attorney general opined that two different political subdivisions may not exercise jurisdiction over the same territory at the same time and for the same purposes. The Barton Springs-Edwards Aquifer Conservation District (BSEACD) was created and confirmed in 1987, and included a parcel of land, approximately 410 acres, in Bastrop County that was part of the service area of Creedmoor-Maha Water Supply Company (WSC), a then-prospective BSEACD permittee. In 1997, the Texas Legislature created the Lost Pines Groundwater Conservation District with the jurisdictional area of all of Bastrop County, resulting in the 410-acre parcel being included in both territories. This bill:

Provides that land in Bastrop County is de-annexed from BSEACD's territorial boundaries.

Midland County Hospital District Contracting Authority—H.B. 1110

by Representative Craddick—Senate Sponsor: Senator Seliger

Under current law, the Midland County Hospital District is required to follow certain requirements for a construction or purchase contract involving the expenditure of more than \$25,000. Statutory changes are needed to align the district's procurement procedures with certain provisions of the Local Government Code. This bill:

Increases the amount of an expenditure necessary for the additional requirements to apply from \$25,000 to \$50,000.

Changes the manner by which a construction or purchase contract governed by the provision may be made from advertising to competitive bidding.

Dissolution of the Country Place Management District—H.B. 1120

by Representative Weber—Senate Sponsor: Senator Jackson

The legislature created the Country Place Management District as a political subdivision of the State of Texas to administer and provide funding for economic development projects and services within the district. Since the voters failed to confirm the district's creation at the required confirmation election, the district's enabling statute should be repealed. This bill:

Repeals the law relating to the establishment and operation of the Country Place Management District.

Territory of the El Paso County Water Control and Improvement District No. 4—H.B. 1383

by Representative Quintanilla—Senate Sponsor: Senator Uresti

As areas adjoining the El Paso County Water Control and Improvement District No. 4 (district) grew, the district began to provide services to customers outside of its established territory and under the jurisdiction of the Lower Valley Water District. An attempt was made to correct the situation by excluding the territory from the Lower Valley District, but it failed to provide that the excluded areas constituted the outer boundaries of the El Paso Water Control and Improvement District No. 4. This bill:

Sets the boundaries of the El Paso County Water Control and Improvement District No. 4.

Public Improvement Districts Designated by a Municipality or County—H.B. 1400

by Representative Elkins—Senate Sponsor: Senator West

H.B. 1400 amends current law relating to public improvement districts designated by a municipality or county. This bill:

Authorizes payment of expenses relating to authorizing a public improvement project to include payment of expenses incurred in the establishment, administration, and operation of the district to also include expenses related to the operation and maintenance of mass transportation facilities.

Authorizes a municipality with a population of more than one million and a council-manager form of government and that is located wholly or partly in a county with a population of more than two million; and a public improvement district solely composed of territory in which the only businesses are hotels with 100 or more rooms ordinarily used for sleeping, to undertake a project that confers a special benefit on areas that share a common characteristic or use.

Requires the governing body of the municipality or county to estimate the appraised value of taxable real property liable for assessment in the district, and the cost of the improvement if a proposed improvement includes a deferred assessment, before holding the required hearing. Authorizes the governing body to defer an assessment until a date the governing body specifies in the ordinance or order.

Greater East End Management District Board of Directors—H.B. 1525

by Representative Alvarado—Senate Sponsor: Senator Gallegos

Under current law, the 15-member board of directors of the Greater East End Management District is required to include at least nine residents of the district and the remaining members must own at least 10 percent of a business located within the district. To address concerns that there are not enough positions on the board for business representatives, these requirements are changed. This bill:

Reduces the residential requirement to five members (or one-third of total membership) and eliminates the ownership provision on the other seats, so that business employees, other than the owners of district businesses, can serve on the board.

Power of the Bell County Water Control and Improvement District No. 1—H.B. 1551

by Representative Aycock—Senate Sponsor: Senator Fraser

The Bell County Water Control and Improvement District No. 1 (district) currently operates under its own statute as well as certain Water Code provisions. The district's only bonded indebtedness is comprised of revenue bonds secured by and payable solely from revenues generated under wholesale water and sewer contracts with cities, water supply corporations, other water districts, and Fort Hood. Current law requires the district to hold an election to issue revenue bonds. This bill:

Authorizes the district to issue bonds for certain purposes, including bonds that may be issued without an election.

Authority of the Harris County Hospital District to Employ Physicians—H.B. 1568

by Representative Coleman—Senate Sponsor: Senator Gallegos

The corporate practice of medicine generally restricts the direct employment of physicians by non-physician entities. It is unclear, however, as to how this applies to certain government entities. Current law allows nonprofit medical schools, federally qualified health centers, and certain nonprofit corporations to employ physicians. This bill:

Clarifies the ability of the Harris County Hospital District to directly employ physicians by providing that the board of the district may appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district.

Provides additional requirements to preserve the independent medical judgment of physicians employed by the hospital district.

Authority of the Lower Neches Valley Authority to Issue Bonds—H.B. 1832

by Representative Ritter—Senate Sponsor: Senator Williams

The Lower Neches Valley Authority's (LNVA) local law, which was passed in the early 1930s by the Texas Legislature, was proposed for codification as part of the Texas Legislative Council's ongoing project to transfer local district statutes to the Special District Local Laws Code. This bill:

Provides the changes necessary to reconcile LNVA's local laws with current statute.

Removal of Appointed Emergency Services Commissioners—H.B. 1917

by Representative Schwertner—Senate Sponsor: Senator Ogden

Under current law, once an individual has been appointed to an emergency services board, the county commissioners court has limited means at its disposal to remove that person for impropriety or dereliction of duties. County commissioners must currently wait until the end of a two-year term to remove an incompetent or corrupt emergency service district official. This inability to hold emergency service commissioners accountable can render a board ineffective and potentially leave the district without responsive leadership. This bill:

Authorizes a county commissioners court to remove an appointed emergency service commissioner by a majority of the court.

Elections for the Crockett County Water Control and Improvement District No. 1—H.B. 1944

by Representative Hilderbran—Senate Sponsor: Senator Uresti

Voter turnout for Saturday elections in May traditionally has been lower than for November general elections. May elections cost more because there are fewer entities holding elections with which to share the cost of the elections. Without legislative action, current law fails to provide the Crockett County Water Control and Improvement District No. 1 (district) a mechanism to move its elections to the November general election day. This bill:

Requires that, notwithstanding Section 49.103(b) (relating to requiring an election to be held on the uniform election date in May of each even-numbered year), Water Code, on the uniform election date in November of each even-numbered year, the district hold an election to elect the appropriate number of directors to the board.

Authorizes the election to be held at any location that is in the boundaries of the district and Crockett County.

Contracting Authority of the Collingsworth County Hospital District—H.B. 1967

by Representative Chisum—Senate Sponsor: Senator Duncan

Currently, the Collingsworth County Hospital District is authorized to make a purchase of up to \$2,000 without having to advertise the proposed purchase in accordance with the Local Government Code. Purchases made for a hospital are usually more technologically advanced and expensive, and many of the district's purchases are greater than \$2,000. To allow the district to make a purchase of up to \$50,000 without having to advertise, the district's enabling statute must be amended. This bill:

Authorizes the district to make a purchase of up to the amount provided by Section 252.021(a) (relating to authorizing a municipality to enter into a contract requiring an expenditure of certain amounts and requiring the municipality to perform certain actions), Local Government Code, without having to advertise.

Benbrook Water Authority Payment for Certain Damages—H.B. 2007

by Representative Shelton—Senate Sponsor: Senator Davis

Under current law, the Benbrook Water Authority is unable to pay for the private property damage that is the result of a backup of the authority's sanitary sewer system. The authority has requested the statutory ability to pay such damages regardless of whether it would be held liable for the damages. This bill:

Authorizes the Benbrook Water Authority to pay actual property damages caused by the backup of the authority's sanitary sewer system without waiving governmental suit or liability.

Authority of Cibolo Creek Municipal Authority to Issue Bonds—H.B. 2162

by Representative Kuempel—Senate Sponsor: Senator Wentworth

Under current law, the Cibolo Creek Municipal Authority does not have the authority to issue bonds. To provide the district with this authority, the Special District Local Laws Code must be amended. This bill:

Authorizes the Cibolo Creek Municipal Utility District to issue bonds under Chapter 1371 (Obligations for Certain Public Improvements), Government Code.

Greater Texoma Utility Authority Approval of Construction Contract Changes—H.B. 2809

by Representative Phillips—Senate Sponsor: Senator Estes

The Greater Texoma Utility Authority is responsible for providing its member cities with assistance in the financing and construction of water and wastewater facilities. The board of directors of the authority can approve changes to the plans and specifications of a construction contract through change orders as long as the aggregate amount of the change orders does not increase the original contract price by a certain percentage. An increase to its change order authority would give the authority the flexibility to effectively manage the changing material prices and project adjustments that typically occur with a large-scale construction project. This bill:

Authorizes the board of directors of the Greater Texoma Utility Authority to approve change orders necessary to decrease or increase the amount of materials, equipment, or supplies to be provided under the contract or the amount of work to be performed if changes in plans or specifications are necessary after performance of a construction contract begins.

Prohibits the total cost of the change orders from increasing the original contract price by more than 25 percent.

Certain Capital Improvements and the Creation of the Midland County Utility District—H.B. 3111

by Representative Craddick—Senate Sponsor: Senator Seliger

Certain municipalities that have not adopted an impact fee have the ability to allow a landowner or developer to connect to a capital improvement and pay a fee for doing so. This ability helps to pay for needed water and sewer lines, street and roadway facilities, and drainage improvements. Because of population growth, the statute determining which municipalities have this ability needs to be adjusted. To allow the municipalities to continue to encourage orderly growth and development, H.B. 3111 seeks to make this adjustment and creates the Midland County Utility District. This bill:

Creates the Midland County Utility District; and provides authority to impose a tax and issue bonds, and grants a limited power of eminent domain.

Sets forth the initial boundaries of the district.

Amends the Local Government Code to increase from 105,000 to 115,000, the maximum population threshold under which provisions relating to adjoining landowner fees for financing capital improvements apply in a municipality that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

Powers and Duties of Certain Public Improvement Districts—H.B. 3597

by Representative Larson—Senate Sponsor: Senator Uresti

Public improvement districts are often called "super PIDS." Under existing law, a "super PID" cannot issue tax-exempt bonds payable from hotel occupancy revenue because of a requirement related to hotelier consent. This bill:

Updates the bracketed population to Bexar County and Comal County in accordance with the most recent census data.

Authorizes a hotel occupancy tax to be used for a purpose described by Chapter 352 (County Hotel Occupancy Taxes), Tax Code, or to encourage the development or operation of a hotel in the district, including an economic development program for or a grant, loan, service, or improvement to a hotel in the district.

Authorizes a district, if authorized by a county, to impose a hotel occupancy tax and use the revenue if the owner of the hotel agrees to the imposition of the tax.

Prohibits the agreement from being revoked by the owner of the hotel or any subsequent owner of the hotel after the owner agrees.

Bolivar Yacht Basin Water Control and Improvement District No. 1—H.B. 3821

by Representative Eiland—Senate Sponsor: Senator Huffman

Bolivar Yacht Basin Water Control and Improvement District Number 1 (district) of Galveston County is an existing special district that was created by the legislature in 2007. H.B. 3821 seeks to eliminate the deadline for a confirmation election of temporary directors of the district and establish provisions relating to temporary directors and the continuation in existence of the district. This bill:

Provides that temporary members of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County board of directors (temporary directors) serve until the earlier of the date directors are elected; or the fourth anniversary of the effective date of the Act enacting the district.

Requires successor temporary directors to be appointed or reappointed, if directors have not been elected and the terms of the temporary directors have expired, to serve terms that expire on the earlier of the date directors are elected; or the fourth anniversary of the date of the appointment or reappointment.

Authorizes the owner or owners of a majority of the assessed value of the real property in the district to submit a petition to the Texas Commission on Environmental Quality (TCEQ) requesting that TCEQ appoint as successor temporary directors the five persons named in the petition.

Requires TCEQ to appoint as successor temporary directors the five persons named in the petition.

Repeals Sections 9027.003 (Confirmation Election Required) and 9027.025 (Expiration of Subchapter), Special District Local Laws Code.

Board of Directors of the Bexar Metropolitan Water District—S.B. 271

by Senator Uresti—House Sponsors: Representatives Menendez and Larson

The Bexar Metropolitan Water District (district) was created by the 49th Legislature in 1945 to serve expected growth in Bexar County. The district is unique among water utilities in that the district is comprised of 18 public water systems not interconnected with each other. While approximately 60 percent of customers reside within the San Antonio city limits, the district also serves customers in Somerset, Castle Hills, Hill Country Village, Hollywood Park, Bulverde, and portions of Converse. This bill:

Provides that the seven members of the board of directors (board) of the district are elected to staggered two-year terms in an election held on the uniform election date in November.

Provides that directors are elected from numbered single-member districts established by the board of directors.

Requires that the board revise each single-member district after each decennial census to reflect population changes and to conform with state law, the federal Voting Rights Act of 1965, and any applicable court order.

Dissolution of the Bexar Metropolitan Water District—S.B. 341

by Senators Uresti and Wentworth—House Sponsors: Representatives Menendez and Larson

The Bexar Metropolitan Water District (district) was established by the Texas Legislature in 1945. The district is unique among water utilities in that it is comprised of 18 public water systems not interconnected with each other. This bill:

Requires TCEQ, after a certain date outlined in this bill, to begin an on-site evaluation of the district. Sets for the requirements of the evaluation.

Requires that on the next uniform election date the board of directors of the district (board), after consultation with the secretary of state, hold an election in the district solely on the question of dissolving the district and disposing of the district's assets and obligations. Sets forth the date the board is required to hold the election.

Provides that in order to provide all of the district's eligible voters an equal opportunity to vote on the determination whether to continue with the current managing authority of the district or to transition to another managing authority which owns, operates, and manages the system, the preferred method of election is a district-wide vote with all votes weighted equally.

Provides that it is the intent of the legislature that the preferred method of election is the method described by Section 2.01 (relating to the board holding an election in the district solely on the question of dissolving the district) of this Act. Provides that Article 2A (Alternative Election Procedures if Article 2 Election is in Violation), Acts of the 49th Legislature, Regular Session, 1945, provides an alternative means of conducting the election on the question of dissolving the district if the method described in Section 2.01 cannot be used due to a final, unappealable administrative or judicial decision.

Requires the board, on the next uniform election date following the date of a final, unappealable administrative or judicial decision that any portion of this act is in violation of the Federal Voting Rights Act or United States Constitution, after consulting with the secretary of state, to hold an election in the district solely on the question of dissolving the district and disposing of the district's assets and obligations. Sets forth the requirements of the order calling the election and the language on the ballot.

Requires that the election be held in numbered voting districts established by the board. Requires the board to draw each voting district to reflect population changes from the latest decennial census and to conform with state law, the federal Voting Rights Act, and any applicable court order.

Provides that the seven members of the board are elected to staggered two-year terms in an election held on the uniform election date in November. Provides that directors are elected from numbered single-member districts established by the board. Requires the board to revise each single-member district after each decennial census to reflect population changes and to conform with state law, the federal Voting Rights Act, and any applicable court order. Provides that at an election of directors, the candidate from each single-member district who receives the greatest number of votes is elected to represent that single-member district. Requires each director to hold office until his successor is elected or appointed and has qualified.

Sets forth the eligibility requirements for a person to be elected or appointed as a director.

Authorizes a director to be recalled for incompetency or official misconduct, conviction of a felony, incapacity, failure to file a financial statement, failure to complete a training program, or failure to maintain residency in the district.

Requires the board, if at least 10 percent of the registered voters in a single-member voting district of the district submit a petition to the board requesting recall of the director who serves that single-member voting district, not later

than the 10th day after the date the petition is submitted, to mail a written notice of the petition and the date of its submission to each registered voter in the single-member voting district.

Sets forth the procedures for the transfer of district assets and liabilities if voters dissolve the district.

Lubbock County Hospital District Board of Managers—S.B. 398

by Senator Duncan—House Sponsor: Representative Frullo

Chapter 1053 of the Texas Special District Local Laws Code is the enabling statute for the Lubbock County Hospital District. In 1999, the 76th Legislature amended the enabling legislation to add an additional board member appointed by the Texas Tech University Board of Regents. This board member is a non-voting member of the board. The original statute established a board of not fewer than five and not more than seven managers. Since the amendment, the Lubbock County Commissioners Court has continued to appoint seven members to the board and the Texas Tech University Board of Regents to appoint one non-voting member. This results in eight members, exceeding the current statutory limit. This bill:

Amends the enabling statute for the Lubbock County Hospital District to provide that the board of hospital managers consists of not fewer than six, and not more than eight managers.

Payment of Costs of Improvements of a Public Improvement District—S.B. 412

by Senator West—House Sponsor: Representative Elkins

Current law authorizes a public improvement district (PID) to collect assessments on properties located within its boundaries by the payment of periodic installments and to finance public improvements undertaken within its boundaries in several ways. The 81st Legislature made changes to the PID statute regarding "cash flow" districts. In an attempt to clarify interest limitations on those PIDs that did not issue bonds, the legislation inadvertently limited the interest rate associated with all obligations. To clarify the intent of the legislation passed by the 81st Legislature, the Local Government Code must be amended. This bill:

Clarifies the reimbursement and payment methodologies that can be used by PIDs.

Establishing More Than One County Assistance District—S.B. 520

by Senator Hegar—House Sponsor: Representative Zerwas

Under current law, it is unclear whether a county may establish more than one county assistance district and whether the county has the authority to add land to or exclude land from a county assistance district. There are also questions relating to sales and use tax issues and the county commissioners court serving as the board of the district. This bill:

Authorizes more than one county assistance district to be created in a county.

Requires that the order calling the election define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 (Tax Authorized) and 323.101 (Tax Authorized), Tax Code.

Authorizes the territory of a municipality that is excluded to subsequently be included in the district in an election with the consent of the municipality or another district after complying with certain requirements after an election.

Requires that the ballot at the election be printed to permit voting for or against the proposition and sets forth the required language of the ballot.

Provides that if a majority of the votes received at the election are against the creation of the district, the district is not created.

Provides that the failure to approve the creation of a district does not affect the authority of the county to call one or more elections on the question of creating one or more county assistance districts.

Prohibits an election from being held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code.

Provides that if more than one election to authorize a local sales and use tax is held on the same day in the area of a proposed district or an area proposed to be added to a district and if the resulting approval by the voters would cause the imposition of a local sales and use tax in any area to exceed the maximum combined rate of sales and use taxes of political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code, only a tax authorized at an election may be imposed.

Authorizes the governing body of a district, in addition to the authority to include an area in a district, to by order include an area in the district on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district.

Authorizes the commissioners court by order to exclude an area from the district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

Requires the commissioners court of the county in which the district is created by order to provide that the commissioners court is the governing body of the district or to appoint a governing body of the district.

Requires a board of directors appointed by the commissioners court to consist of five directors who serve staggered terms of two years and requires a person, to be eligible to serve as a director, to be a resident of the county in which the district is located.

Authorizes a district to, among other tasks, enter into agreements with municipalities necessary or convenient to achieve the district's purposes, including agreements regarding the duration, rate, and allocation between the district and the municipality of sales and use taxes.

Prohibits a district from adopting a sales and use tax if the adoption of the tax would result in a combined tax rate of all local sales and use taxes that would exceed the maximum combined rate prescribed by Sections 321.101 and 323.101, Tax Code, in any location in the district.

Requires that the rate of a tax adopted be in increments of one-eighth of one percent, rather than one-eighth, one-fourth, three eighths, or one-half of one percent.

Authorizes a district that has adopted a sales and use tax to reduce the rate of the tax or repeal the tax without an election, with exceptions; increase the rate of the sales and use tax, if the increased rate of the sales and use tax will not exceed the rate approved at an election; or increase the rate of the sales and use tax to a rate that exceeds the rate approved at an election after the increase is approved by a majority of the votes received in the district at an election held for that purpose.

Authorizes the tax to be changed in one or more increments of one-eighth of one percent, rather than in one or more increments of one-eighth of one percent to a maximum of one-half of one percent.

Requires that the ballot for an election to increase the tax be printed to permit voting for or against the proposition. Sets forth the required language of the ballot.

Provides that the adoption of the tax, the increase or reduction of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller of public accounts receives a copy of the order of the district's governing body adopting, increasing, reducing, or repealing the tax.

Election of the Board of the Middle Pecos Groundwater Conservation District—S.B. 564

by Senator Uresti—House Sponsor: Representative Gallego

Current law sets the election date for the Middle Pecos Groundwater Conservation District (district) in on a Saturday in May of each even-numbered year. May elections traditionally have a lower voter turnout than do general elections in November. May elections cost a district more because there are fewer entities with which to share the costs of the election. This bill:

Moves the district's election from May to the uniform election date in November of each even-numbered year.

Dissolution of Fort Bend County Water Control and Improvement District No. 1—S.B. 684

by Senators Huffman and Hegar—House Sponsor: Representative Charlie Howard

Fort Bend County Water Control and Improvement District No. 1 (WCID) was created in 1932 by the legislature to provide water, drainage facilities and services, and levees to help alleviate flooding. For over 75 years, WCID has served the residents of WCID and Sugar Land. Those cities once served by WCID have now matured and taken over the role of WCID. The City of Sugar Land has annexed and incorporated approximately 90 percent of the land located within WCID's boundaries, and provides all of the water and drainage services to the residents and businesses located in that area. WCID has conveyed to the City of Sugar Land all of its dams, facilities, improvements, easements, and real property used to contain, control, or convey WCID's water. This bill:

Dissolves WCID on the date the city council of the City of Sugar Land passes a resolution accepting the assets, debts, and contractual rights and obligations of WCID.

Provides that on the date of the dissolution of WCID, and notwithstanding Section 51.790 (Water Rights of Dissolved District), Water Code, ownership of Certificate of Adjudication No. 11-5170, including any attachments or amendments to the certificate, transfers to the City of Sugar Land.

Relating to El Paso County Water Improvement District No. 1—S.B. 832

by Senators Rodriguez and Uresti—House Sponsor: Representative Quintanilla

The El Paso County Water Improvement District No. 1 (district) was formed in 1917 and exists to provide irrigation water to agricultural land; it does not provide any potable water or sewer services. The district is a special purpose district with taxes paid only by those people who own irrigable land in the district and receive irrigable water. Currently, the majority of voters within the irrigation district are non-taxpayers. Nearly all of the district's taxes are paid by farmers and people who make a living off the land. The tax payments are proportional to the amount of land

owned and the amount of water used. Any unreasonable increase in district taxes will cause many of these farmers to go out of business and farm workers to lose their jobs. This bill:

Provides that an individual is eligible to vote in a district election only if the individual is 18 years or older, is a United States citizen, holds title to or an interest in title to irrigable land within the boundaries of the district, and receives and uses irrigation water delivered by the district through the district's canal system.

Requires an individual who is eligible to vote, in order to vote in an election, to register with the district not later than the 30th day before the date on which the district election is held.

Requires the district to file with the county clerk of El Paso County a certified copy of the list of the district's registered voters not later than the 25th day before the date on which the district election is held.

Requires the district, not later than the 60th day and not earlier than the 90th day before the date of each district election, to publish notice of the voter eligibility and registration requirements provided by this bill.

Hospital District Authority to Contract for Administrative Functions and Services—S.B. 847

by Senator Patrick—House Sponsor: Representative John Davis

Federally qualified health centers (FQHCs) provide comprehensive health services in an underserved area or to an under-served population. Although these facilities provide a wide range of services, they often have less capacity for administrative functions and services. If an FQHC was allowed to enter into a contract with an urban hospital district, the district could perform administrative functions such as records maintenance. The contract could also allow the FQHC to share any discounts for equipment or supplies that are available to the hospital district. This bill:

Authorizes hospital districts in urban counties with a population of more than 190,000 to contract with an FQHC or an FQHC look-alike to provide administrative functions and services.

Emergency Services Districts—S.B. 917

by Senator Wentworth—House Sponsor: Representative Doug Miller

Current law provides for the creation, powers, and duties of emergency services districts to provide firefighting and other emergency services to residents of areas where voters have approved their creation and that are not served by municipal fire departments. As the state's population continues to grow rapidly, particularly in suburban and exurban areas adjacent to established cities, the need for emergency services districts continues to increase, as does the number of such districts. This bill:

Authorizes voluntary streamlining of service administration and other cost-saving measures for emergency service districts.

Provides enhanced training and accountability requirements for the boards of the districts that provide these services.

Clarifies existing law to prevent duplication of services by emergency services districts.

Creation of the Lakeway Regional Medical Center Defined Area—S.B. 942

by Senator Watson—House Sponsor: Representative Lucio III

The Travis County Water Control and Improvement District No. 17 (district) located in the City of Lakeway desires to establish and administer a defined area of approximately 53 acres within the district to construct roads and related improvements to support the Lakeway Regional Medical Center. This bill:

Creates the Lakeway Regional Medical Center Defined Area located within the Travis County Water Control and Improvement District No. 17.

Authorizes the district, to purchase, acquire, or construct roads to serve the occupants of a defined area, to hold an election to authorize tax exempt bonds and to impose a tax to repay bonds under Chapter 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code.

Authorizes the defined area to levy of an ad valorem tax solely within the defined area and only after an election.

Sets forth requirements regarding elections in the defined area.

Sets the initial boundaries of the defined area.

Municipal Management Districts—S.B. 1234

by Senator West—House Sponsor: Representative Dutton

Although municipal management districts (MMDs) may be created through petition at TCEQ under Chapter 375 (Municipal Management Districts in General), Local Government Code, MMDs are more commonly created through special law. The authority granted to each MMD is determined by the language contained in the bill that creates it, which varies to a large extent on the purpose for the creation of the district and its location. The evolution in the use of MMDs and the use of MMDs as a tool for development has increased significantly over the past decade but corresponding changes to Chapter 375, Local Government Code, have not kept up with the current use of these districts. Amendments to the Local Government Code are necessary to better reflect the current use of MMDs, provide greater oversight by the appropriate state agencies, and clarify common administrative procedures. This bill:

Amends the Local Government Code relating to the general powers of a municipal management district.

Amends statutory language relating to annexation by a district, exclusion of land from a district, authority and requirements for road projects, the validity of district actions, requirements for the public financing of bonds, levying taxes to issue bonds, applicability of water districts law to competitive bidding on certain contracts, limitations on the dissolution of a district, and district authority to enter into partnerships with a municipality.

Lease of Property or Hospital Facilities by Certain Hospital Districts—S.B. 1352

by Senator Watson—House Sponsor: Representative Naishtat

The Travis County Healthcare District (district) was created in 2004, under Chapter 281 (Hospital Districts in Counties of at Least 190,000), Health and Safety Code, which gives the Travis County Commissioners Court certain oversight responsibilities over the district, primarily appointing a number of members to the district's board of managers and approving its budget and tax rate. Pursuant to the provisions of Chapter 281, Health and Safety Code, the commissioners court has chosen to delegate to the board the method of making purchases. Changes to Chapter 281 since 2004 have given the district additional authority to manage its operations, such as the ability to rename

itself and to enter service contracts without the approval of the commissioners court. The district leases a number of facilities and properties to and from others. This bill:

Authorizes the board of managers of the Travis County Healthcare District, notwithstanding Section 281.050 (Powers Relating to District Property, Facilities, and Equipment), to lease any property, or hospital facility without the approval of the commissioners court. Requires the board to post public notice of any proposed transaction under this subsection as required by Chapter 551 (Open Meetings), Government Code.

Election of Directors of the Real-Edwards Conservation and Reclamation District—S.B. 1492

by Senator Uresti—House Sponsor: Representative Hilderbran

Current law states that candidates for any of the nine seats on the board of directors of the Real-Edwards Conservation and Reclamation District (board; district) can reside in either of the two counties. Current law fails to provide for balanced representation from the two counties and could allow all of the representatives to be elected from only one county. The board of directors of the district, as well as the commissioners courts of both counties, believe that it is in the best interest of the citizens of both counties to ensure near equal representation from both counties on the district's board. Commissioners courts from both counties passed resolutions in support of the proposed legislation. This bill:

Restricts candidacy for the board of the district to four seats from Edwards County, four seats from Real County, and one seat elected at large from either county.

Notice of Water and Wastewater Requirements Before Certain Property Sales—S.B. 1760

by Senator Lucio—House Sponsor: Representative Oliveira

Currently, certain statutory provisions applicable predominantly to counties that are located along the Texas-Mexico border require the adoption of certain land development requirements, such as platting and water and wastewater requirements, meant to prevent the proliferation of colonias. These regulations are known as the model subdivision rules of the Texas Water Development Board. It has been found that instances exist in which some potential land buyers, such as those buying land at sheriff auctions, are not being made aware of the platting and water and wastewater requirements set out by the rules, which, in certain circumstances, has resulted in unintentional violations of the law in certain land-sale transactions. This bill:

Requires counties under the jurisdiction of Subchapter B, Chapter 232, Local Government Code, to include a notice of water and wastewater requirements in the public notice of sale of property.

Board of Directors of the Lake View Management and Development District—S.B. 1899

by Senator Nichols—House Sponsor: Representative Pitts

Current law does not allow for any compensation of the Lake View Management and Development District's directors outside of reimbursement for expenses. To allow the Lake View Management and Development District to compensate its board of directors, the Special District Local Laws Code must be amended. This bill:

Authorizes the Lake View Management and Development District to compensate its board of directors in the manner and amounts comparable to districts of its type.

Development, Improvement, and Management Districts

Legislation enacted by the 82nd Legislature, Regular Session, affected the following development, improvement, and management districts:

- Aldine Improvement District (S.B. 900 by Senator Gallegos; House Sponsor: Representative Thompson)
- Bridgeland Management District (H.B. 3842 by Representative Callegari; Senate Sponsor: Senator Patrick)
- Club Municipal Management District No. 1 (H.B. 3859 by Representative Laubenberg; Senate Sponsor: Senator Deuell)
- Fulshear Town Center Management District (H.B. 3827 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Gulfton Area Municipal Management District (H.B. 3828 by Representative Hochberg; Senate Sponsor: Senator Gallegos)
- Harris County Improvement District No. 5 (H.B. 2670 by Representative Miles; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 22 (S.B. 1882 by Senator Patrick; House Sponsor: Representative Fletcher)
- Imperial Redevelopment District (S.B. 1880 by Senator Huffman; House Sponsor: Representative Charlie Howard)
- Jefferson County Management District No. 1 (H.B. 2296 by Representative Ritter; Senate Sponsor: Senator Huffman)
- Midlothian Municipal Management District No. 2 (H.B. 3852 by Representative Pitts; Senate Sponsor: Senator Birdwell)
- Monticello Municipal Management District No. 1 (H.B. 3831 by Representatives Marquez and Margo; Senate Sponsor: Senator Rodriguez)
- Mustang Ranch Municipal Management District No. 1 (H.B. 534 by Representative Phillips; Senate Sponsor: Senator Estes)
- Near Northside Management District (H.B. 3857 by Representative Dutton; Senate Sponsor: Senator Gallegos)
- North Fort Bend County Improvement District No. 1 (H.B. 3834 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- North Oak Cliff Municipal Management District (H.B. 1651 by Representative Alonzo; Senate Sponsor: Senator West)
- Port Isabel Improvement District No. 1 (S.B. 1922 by Senator Lucio; House Sponsor: Representative Oliveira)
- Red River Redevelopment Authority (S.B. 410 by Senator Eltife; House Sponsor: Representative Lavender)
- Rowlett Downtown Management District (S.B. 234 by Senator Deuell; House Sponsor: Representative Driver)
- Rowlett Pecan Grove Management District (S.B. 233 by Senator Deuell; House Sponsor: Representative Driver)
- Rowlett Waterfront Entertainment Management District (H.B. 427 by Representative Driver; Senate Sponsor: Senator Deuell)
- Timber Springs Municipal Management District (S.B. 1184 by Senator Nichols; House Sponsor: Representative Christian)
- Valencia Municipal Management District No. 1 (H.B. 3819 by Representative Crownover; Senate Sponsor: Senator Nelson)
- Windsor Hills Municipal Management District No. 1 (H.B. 3836 by Representative Pitts; Senate Sponsor: Senator Birdwell)

Hospital Districts

Legislation enacted by the 82nd Legislature, Regular Session, affected the following hospital districts:

- Castro County Hospital District (H.B. 1413 by Representative Chisum; Senate Sponsor: Senator Duncan)
- Dallam-Hartley Counties Hospital District (S.B. 310 by Senator Seliger; House Sponsor: Representative Smithee)
- Hamilton County Hospital District (S.B. 490 by Senator Fraser; House Sponsor: Representative Sid Miller)
- Hopkins County Hospital District (H.B. 1144 by Representative Cain; Senate Sponsor: Senator Deuell)
- Moore County Hospital District (H.B. 1293 by Representative Price; Senate Sponsor: Senator Seliger)
- Rankin County Hospital District (H.B. 850 by Representative Craddick; Senate Sponsor: Senator Duncan)
- Scurry County Hospital District (H.B. 811 by Representative Darby; Senate Sponsor: Senator Duncan)
- Swisher Memorial Hospital District (S.B. 558 by Senator Duncan; House Sponsor: Representative Chisum)
- Val Verde County Hospital District (H.B. 1496 by Representative Gallego; Senate Sponsor: Senator Uresti)

Authority of Certain Hospital Districts to Employ Physicians

The 82nd Legislature, Regular Session, authorized the following hospital districts to employ physicians:

- Bexar County Hospital District (H.B. 2351 by Representative McClendon; Senate Sponsor: Senator Van de Putte)
- El Paso County Hospital District (S.B. 860 by Senator Rodriguez; House Sponsor: Representative Naomi Gonzalez)
- Ochiltree County Hospital District (S.B. 311 by Senator Seliger; House Sponsor: Representative Chisum)

Authority of Certain Hospital Districts to Employ Peace Officers

The 82nd Legislature, Regular Session, authorized the following hospital districts to employ peace officers:

- Ector County Hospital District (H.B. 3815 by Representative Lewis; Senate Sponsor: Senator Seliger)
- El Paso County Hospital District (S.B. 601 by Senator Rodriguez; House Sponsor: Representative Naomi Gonzalez)

Municipal and Special Utility Districts and Groundwater Conservation Districts

Legislation enacted by the 82nd Legislature, Regular Session, affected the following municipal utility districts, special utility districts, and groundwater conservation districts:

- Agua Special Utility District (S.B. 1875 by Senator Hinojosa; House Sponsor: Representative Munoz, Jr.)
- Bearpen Creek Municipal Utility District of Hunt County (H.B. 2363 by Representative Flynn; Senate Sponsor: Senator Deuell)
- Case Creek Municipal Utility District No. 1 of Grayson County (H.B. 534 by Representative Phillips; Senate Sponsor: Senator Estes)
- Calhoun County Groundwater Conservation District (S.B. 1290 by Senator Hegar; House Sponsor: Representative Hunter)
- CLL Municipal Utility District No. 1 (H.B. 3845 by Representative Sheffield; Senate Sponsor: Senator Ogden)

- Cottonwood Municipal Utility District No. 2 of Grayson County (H.B. 3803 by Representative Phillips; Senate Sponsor: Senator Estes)
- Gunter Municipal Utility District No. 1 (H.B. 534 by Representative Phillips; Senate Sponsor: Senator Estes)
- Gunter Municipal Utility District No. 2 (H.B. 534 by Representative Phillips; Senate Sponsor: Senator Estes)
- Harris County Municipal Utility District No. 510 (H.B. 3862 by Representative Wayne Smith; Senate Sponsor: Senator Whitmire)
- Harris County Municipal Utility District No. 524 (H.B. 709 by Representative Fletcher; Senate Sponsor: Senator Patrick; and S.B. 475 by Senator Patrick; House Sponsor: Representative Fletcher)
- Harris County Municipal Utility District No. 528 (S.B. 813 by Senator Gallegos; House Sponsor: Representative Wayne Smith; and H.B. 886 by Representative Wayne Smith; Senate Sponsor: Senator Gallegos)
- Hidalgo County Water Improvement District No. 3 (S.B. 978 [Vetoed] by Senator Hinojosa; House Sponsor: Representative Veronica Gonzalez)
- Hudson Ranch Fresh Water Supply District No. 1 (H.B. 3813 by Representative Isaac; Senate Sponsor: Senator Wentworth)
- Hunt County Municipal Utility District No. 1 (H.B. 315 by Representative Flynn; Senate Sponsor: Senator Deuell)
- Lajitas Utility District No. 1 of Brewster County (H.B. 3804 by Representative Gallego; Senate Sponsor: Senator Uresti)
- Lazy W District No. 1 (H.B. 3864 by Representative Gooden; Senate Sponsor: Senator Deuell)
- Montgomery County Municipal Utility District No. 112 (H.B. 2238 by Representative Creighton; Senate Sponsor: Senator Nichols)
- Oatman Hill Municipal Utility District (S.B. 1877 by Senator Hegar; House Sponsor: Representative Isaac)
- Pilot Knob Municipal Utility District No. 1 (H.B. 1757 by Representative Eddie Rodriguez; Senate Sponsors: Senators Watson and Zaffirini)
- Pilot Knob Municipal Utility District No. 2 (H.B. 1756 by Representative Eddie Rodriguez; Senate Sponsors: Senators Watson and Zaffirini)
- Pilot Knob Municipal Utility District No. 3 (H.B. 1758 by Representative Eddie Rodriguez; Senate Sponsors: Senators Watson and Zaffirini)
- Pilot Knob Municipal Utility District No. 4 (H.B. 1759 by Representative Eddie Rodriguez; Senate Sponsor: Senator Watson)
- Pilot Knob Municipal Utility District No. 5 (H.B. 1760 by Representative Eddie Rodriguez; Senate Sponsor: Senator Watson)
- Ranch at Clear Fork Creek Municipal Utility District No. 1 (S.B. 629 by Senators Hegar and Wentworth; House Sponsor: Representative Isaac)
- Ranch at Clear Fork Creek Municipal Utility District No. 2 (S.B. 630 by Senators Hegar and Wentworth; House Sponsor: Representative Isaac)
- Rio de Vida Municipal Utility District No. 1 (S.B. 768 by Senator Watson; House Sponsor: Representative Dukes)
- Southeast Travis County Municipal Utility District No. 1 (S.B. 1913 by Senators Watson and Zaffirini; House Sponsor: Representative Eddie Rodriguez)
- Southeast Travis County Municipal Utility District No. 2 (S.B. 1914 by Senators Watson and Zaffirini; House Sponsor: Representative Eddie Rodriguez)
- Southeast Travis County Municipal Utility District No. 3 (S.B. 1915 by Senators Watson and Zaffirini; House Sponsor: Representative Eddie Rodriguez)
- Southeast Travis County Municipal Utility District No. 4 (S.B. 1916 by Senators Watson and Zaffirini; House Sponsor: Representative Eddie Rodriguez)
- Travis-Creedmoor Municipal Utility District (H.B. 3814 by Representative Eddie Rodriguez, Senate Sponsor: Senator Wentworth)

- West Travis County Municipal Utility District No. 5 (H.B. 3743 by Representative Workman; Senate Sponsor: Senator Watson)
- Williamson-Liberty Hill Municipal Utility District (H.B. 1932 by Representative Schwertner; Senate Sponsor: Senator Ogden)

Expansion of the Extraterritorial Jurisdiction of the City of Corsicana—H.B. 91

by Representative Cook—Senate Sponsor: Senator Birdwell

In efforts to attract new businesses and residents, the City of Corsicana has been cleaning unkempt and derelict properties along the corridors leading into the city. While Corsicana has managed to clean up a lot of what is within the city limits and its existing extraterritorial jurisdiction, it has had trouble getting property owners to comply with existing city regulations regarding trash dumping and sewer systems. This bill:

Expands the City of Corsicana's extraterritorial jurisdiction from two miles to three miles to allow the city to implement existing city regulations. Does not change the current statute that prohibits the regulation of the number, size, and use of buildings constructed on a particular piece of property.

Regulation of Slaughterers by Certain Counties—H.B. 92

by Representatives Cook and Pitts—Senate Sponsors: Senators Estes and Birdwell

Currently, certain counties have more authority over the regulation of slaughterhouses than do other counties. The county commissioners court in certain counties may require a slaughterer to obtain a permit from the county and may prohibit the operation of a slaughterhouse under certain circumstances. This bill:

Expands the authority to regulate slaughterers to a county that contains two or more municipalities with a population of 250,000 or more; is a county adjacent to a such a county; or is a county adjacent to a county that is adjacent to such a county and has a population of not more than 50,000 and contains a municipality with a population of at least 20,000, or contains, wholly or partly, two or more municipalities with a population of 250,000 or more.

Restrictions Affecting Real Property in Certain Subdivisions—H.B. 232

by Representatives White and Keumpel—Senate Sponsor: Senator Ogden

Chapter 211 (Amendment and Enforcement of Restrictions in Certain Subdivisions), Property Code, provides that a property owners' association may, by a two-thirds vote, amend deed restrictions for a subdivision governed by the restrictions. This bill:

Provides that Chapter 211 applies only to a residential real estate subdivision or any unit or parcel of a subdivision all or part of which is located within an unincorporated area of a county if the county as a population of less than 65,000 or all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000.

Provides that, in addition to restrictions and units or parcels of a subdivision that are subject to Chapter 211 under Subsection (b) (relating to providing that this chapter only applies to restrictions that affect real property within a residential real estate subdivision), Chapter 211 applies to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions, provide that amendments to the restrictions are not operative or effective until a specified date or the expiration of a specified period.

Provides that an amendment under Chapter 211 of a restriction described by this bill is effective as provided by Chapter 211, regardless of whether the date specified in the restrictions has occurred or the period prescribed by restrictions has expired.

Provides that an amendment of a restriction under Chapter 211 is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which all or part of the subdivision is located after the

approval of the owners in accordance with the amendment procedure under Section 211.004 (Creation or Modification of Procedure to Amend Restrictions), Property Code.

Limitations on Awards in an Adjudication Against a Local Governmental Entity—H.B. 345

by Representative Kleinschmidt—Senate Sponsor: Senator Wentworth

Current law is unclear regarding whether a contractor, subcontractor, or supplier is entitled to receive prompt pay interest on past due payments for work performed on a public construction project owned by the state or other governmental entity. This bill:

Limits the total amount of money that may be awarded in an adjudication brought against a local governmental entity for a breach of contract to the balance due and owed by the local governmental entity, the amount owed for change orders or additional work, reasonable and necessary attorney's fees, and interest as allowed by law.

Authority of Certain Municipalities to Acquire Certain Condominium Complexes—H.B. 364

by Representative Turner—Senate Sponsor: Senator Ellis

Chapter 374 (Urban Renewal in Municipalities), Local Government Code, provides a mechanism for a municipality to obtain administrative or judicial authorization to demolish a derelict condominium complex. However, such proceedings do not adjudicate title to the structures or to the land. The City of Houston is prohibited from implementing a Chapter 374 urban renewal plan unless the city follows an arcane procedure of resolutions by the city council, publications of notices, and an election. To take abandoned condominium complexes, the City of Houston requires a limited eminent domain authority. This bill:

Authorizes a municipality with a population of 1.9 million or more to obtain authorization, in the narrow context of abandoned condominium complexes, to exercise the statutory powers already used by other Texas cities under a Chapter 374 urban renewal plan.

Authorizes a municipality to exercise limited eminent domain to acquire only condominium complexes not lawfully occupied for at least one year.

Provides that this authority expires December 31, 2016.

Civil Service Status of Emergency Medical Services Personnel in Certain Municipalities—H.B. 554

by Representatives Donna Howard and Eddie Rodriguez—Senate Sponsor: Senator Watson

Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, allows municipalities to hold an election to adopt a civil service law for firefighters and police officers employed by the municipality. In most cities covered by this statute, emergency medical services (EMS) personnel are also covered because they are employees of the fire department. However, the City of Austin has a separate department for EMS personnel because these employees are employed by the city but provide service to all of Travis County through a mutual aid agreement. This bill:

Authorizes a municipality with a population of 460,000 or more that operates under a city manager form of government, and that employs emergency medical services personnel in a municipal department other than the fire department (City of Austin), to hold an election to adopt or repeal Subchapter K (Civil Service Status of Emergency Medical Services Personnel In Certain Municipalities), Chapter 143, Local Government Code.

If Subchapter K is adopted by a municipality, provides civil service status to each person who is employed for more than six months as emergency medical services personnel in a municipality at the time this subchapter is adopted and who is entitled to civil service classification.

Provides that such a person is not required to take a competitive examination to remain in the position the person occupies at the time of adoption.

Maintenance of Portable Fire Extinguishers in Government-Owned Vehicles—H.B. 564

by Representative Craddick—Senate Sponsor: Senator Seliger

Current law does not require a local government that equips government owned vehicles with portable fire extinguishers to perform an annual maintenance inspection on the fire extinguishers. This bill:

Requires a local government that adopts an ordinance, order, or policy requiring motor vehicles owned by the local government to be equipped with portable fire extinguishers to require maintenance to be performed annually in accordance with standards that are at least as stringent as National Fire Protection Association Standard No. 10, Portable Fire Extinguishers.

Change Order Approval Requirements for Political Subdivisions—H.B. 679

by Representative Button—Senate Sponsor: Senator Carona

Current law permits cities and other political subdivisions to approve change orders that increase or decrease the price of purchases and contracts by up to \$25,000. This bill:

Increases the maximum amount that a city, bond-issuing authority, civic center authority, sports facility district, jail district, or water improvement district may authorize changes to purchase orders or contracts from \$25,000 to \$50,000.

Provides that the governing bodies of such political subdivisions may delegate this authority to an administrative official.

Requirements Relating to the Sale or Lease of Certain Lands—H.B. 844

by Representative Geren—Senate Sponsor: Senator Nelson

Under current law, a municipality with a population of 575,000 or less that owns land near a certain shoreline of a lake can sell the land to the leaseholder of the land without notice or the solicitation of bids. Larger cities are subject to certain bidding requirements on such property. These bidding requirements can present a problem for larger cities in that a number of leaseholders who have resided on and improved the property may move from the property and sell any improvements. This bill:

Increases the population cap that defines cities that may sell certain land to the person leasing the land for the fair market value of the land as determined by a certified appraiser to cities with a population of 825,000.

Expiration of a County Burn Ban—H.B. 1174

by Representative Workman—Senate Sponsor: Senator Wentworth

The Local Government Code addresses a county's authority to regulate outdoor burning and gives the commissioners court of a county the power to institute burn bans in all or part of the unincorporated areas of the county if certain conditions exist. A burn ban may not last longer than 90 days unless renewed by the commissioners court, but a burn ban instituted by a commissioners court can be lifted only by a subsequent action by the court and in some counties, commissioners courts meet only once or twice a month. This bill:

Provides that a burn ban order expires on the date a determination is made by the commissioners court, or by the county judge or fire marshal if designated for that purpose by the commissioners court, that the circumstances requiring a burn ban no longer exist.

Vehicle Parking Requirements in Municipal Housing Authority Communities—H.B. 1371

by Representative Naomi Gonzalez—Senate Sponsor: Senator Rodriguez

H.B. 1371 amends current law relating to vehicle parking requirements in certain municipal housing authority communities. This bill:

Authorizes a municipal housing authority located in a municipality that has a population of more than 500,000 and is not more than 50 miles from an international border, or a public facility corporation, affiliate, or subsidiary of the authority, to require that vehicles parked in a community of the authority, corporation, affiliate, or subsidiary be registered with the housing authority.

Municipal Fire Department Hiring Examinations—H.B. 1488

by Representative Gutierrez—Senate Sponsor: Senator Van de Putte

Currently, the City of San Antonio has a procedure in place requiring that a firefighter recruit's entire eligibility for entrance into the fire academy be based on one examination. This process is vulnerable to overlooking candidates who might possess desirable qualities for the fire academy that are not measured by the examination. This bill:

Authorizes the City of San Antonio to use additional testing mechanisms, including personality-based examinations, integrity-based examinations, and structured oral interviews to be weighted alongside a written test for entry into a fire academy.

Purchasing and Contracting Authority of Certain Governmental Entities—H.B. 1694

by Representative Coleman—Senate Sponsor: Senator West

Currently, a violation of county competitive bidding statutes can result in a costly repeat of advertising or bid processes as well as a criminal penalty. In statute, there are provisions with population brackets that leave a smaller county without the same tools as a larger county, while other provisions are unclear and inefficient, lagging behind available technology and current business processes. This bill:

Clarifies competitive bidding and related processes, including aligning penalties involving technical components of the competitive bidding statute to violations found in other law, and provides alternatives when bid processes fail to provide responsive bidders.

Validates current purchasing practices, such as use of procurement cards and aligns statutory processes with current technology, such as electronic payment.

Removes many of the population brackets that limit certain procurement processes to certain counties and provides uniformity across county purchasing statutes.

County Ethics Commission for Certain Counties—H.B. 2002

by Representative Marquez—Senate Sponsor: Senator Rodriguez

S.B. 1368, 81st Legislature, Regular Session, 2009, provided for the establishment of an ethics commission with the power to develop and enforce an ethics code governing county public servants and with additional powers and duties in a county that has a population of 650,000 or more; is located on the international border; and before September 1, 2009, had a county ethics board appointed by the commissioners court, such as in El Paso County. This bill:

Provides that members of the county ethics commission (commission) created under Chapter 161 (County Ethics Commission in Certain Counties), Local Government Code, appointed as provided by Section 161.055(a)(1) (relating to members appointed by the county judge or a county commissioner) serve terms beginning on February 1 of each odd-numbered year.

Provides that members appointed as provided by Section 161.055(a)(2) (relating to members appointed by the commissioners court) serve terms beginning on February 1 of each even-numbered year, and sets forth requirements related to the replacement and reappointment of such members whose terms expire on January 31, 2013, and subsequent terms, providing that the related subsection expires September 1, 2014.

Changes provisions related to the position of chair to provide that the position of chair is selected from the members by a majority vote of the members and that the chair serves a term of six months.

Authorizes a member to decline to serve as chair.

Requires a person, not later than the 30th day, rather than the 60th day, after a person is appointed to the commission, to complete the required training, and prohibits a person who is appointed to and qualifies for office as a member from voting, deliberating, or being counted as a member in attendance at a commission meeting after the 30th day after the person is appointed to the commission unless the required training program has been completed.

Requires the commission and commission staff to make available periodic training for persons covered by the ethics code adopted by the commission, and requires a person covered by the ethics code or a lobbyist or vendor required to complete training to complete the training as determined by the commission.

Revises provisions relating to members serving on the standing preliminary review committee (committee).

Prohibits a county public servant, rather than the county, from suspending or terminating the employment of or taking other adverse action against a county employee who in good faith files a complaint or otherwise reports to the commission, commission staff, or another law enforcement authority a violation of the ethics code; or who in good faith participates in the complaint processing, preliminary review, hearing, or any other aspect of the investigation and resolution by the commission of an alleged violation of the ethics code.

Adjust timelines related to the processing of a complaint by the committee, and the providing of required documents to the complainant and/or the respondent after different determinations and stages are reached in the complaint process and preliminary review.

Requires that the respondent, if the alleged violation is a Category One violation, respond to the required notice not later than the 14th day, rather than the 10th business day, after the respondent receives the notice; and requires the committee, if the matter is not resolved by agreement between the committee, rather than the commission, and the respondent before the 30th day, rather than the 30th business day, after the respondent receives the required notice, set the matter for a preliminary review hearing to be held at the next committee meeting.

Requires that the respondent, if the alleged violation is a Category Two violation, respond to the required notice not later than the 14th day, rather than the 25th business day, after the respondent receives the notice; and requires the committee, if the matter is not resolved by agreement between the committee, rather than the commission, and the respondent before the 30th day, rather than the 75th business day, after the respondent receives the required notice, set the matter for a preliminary review hearing to be held at the next committee meeting.

Requires the commission, not later than the 10th day, rather than the fifth business day, before a scheduled formal hearing or on the granting of a motion for discovery by the respondent, to provide the respondent with certain documents.

Authorizes, rather than requires, the commission, at the conclusion of the formal hearing or not later than the 40th day, rather than the 30th business day, after the formal hearing to convene a meeting, and by motion issue a final decision stating the resolution of the formal hearing and a written report addressing certain topics.

Requires the commission, not later than the 14th day, rather than the 10th business day, after the commission issues the final decision and written report, to send a copy of the decision and report to the complainant and to the respondent; and make a copy of the decision and report available to the public during reasonable business hours.

Requires the commission to resolve a complaint within three months, rather than six months, of its receipt unless it makes a determination that additional time is required to resolve the matter.

Requires that the complaint be deemed to have been dismissed without prejudice if the commission does not resolve the matter within three months, rather than six months, or within an authorized extension.

Provides that Chapter 551 (Open Meetings), Government Code, does not apply to the deliberation by the commission regarding a contested complaint following the conclusion of a formal hearing, but does apply to the meeting at which the commission issues a final decision stating the resolution of the final hearing.

Provides that, with certain existing exceptions, proceedings at a preliminary review hearing performed by the committee, rather than by the commission, are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding.

Provides that an order issued by the committee, rather than by the commission, after the completion of a preliminary review or hearing determining that a violation other than technical or de minimis violation has occurred is not confidential.

Governing Bodies of Local Planning Organizations—H.B. 2160

by Representative Coleman—Senate Sponsor: Senator West

Regional councils assist governmental entities in responding to the needs of constituents by providing a statewide, multifunctional network for determining the most effective and efficient way to meet local needs and overseeing the delivery of needed services. Generally, the purpose of a regional council is to study and create plans to guide the unified, pervasive development of a region, eliminate duplication, and promote economy and efficiency. This bill:

Authorizes participating governmental units to determine the number and qualifications of members of the governing body of a regional planning commission, council of governments, or similar regional planning agency by joint agreement, providing an exception.

Requires the governing body of a regional planning commission of a region that is consistent with the geographic boundaries of a state planning region to offer an ex officio, nonvoting membership on the governing body to a member of the legislature who represents a district located wholly or partly in the region of the commission.

Authorized Investments for Governmental Entities—H.B. 2226

by Representative Truitt—Senate Sponsor: Senator Carona

The Public Funds Investment Act, which governs the investment of government funds in Texas, requires governmental bodies in Texas to adopt investment policies and to designate an investment officer who is required to attend an approved investment training course. This Act also provides a detailed listing of authorized investments for public funds. Failure to make timely changes in the law to keep the law current with changes in the investment industry generally has hindered governmental entities in their efforts to best serve the public. This bill:

Requires the written investment policy adopted by the governing body of an investing entity to include procedures to monitor rating changes in investments acquired with public funds.

Clarifies procedures relating to training requirements for a state agency governing board member and investment officer.

Authorizes an investing entity to make certain types of investments.

Removes a requirement for a public funds investment pool to be continuously rated no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

Sets forth requirements relating to the reporting of an investment pool.

Fire Code Certificates of Compliance—H.B. 2266

by Representative Wayne Smith—Senate Sponsor: Senator Patrick

Current law does not provide counties the authority to issue a partial or conditional certificate of compliance for portions of a building or complex that are completed and determined to be in substantial compliance with the fire code. This bill:

Authorizes the county to issue a partial certificate of compliance for any portion of a building or complex the inspector determines is in substantial compliance with the fire code, for a building or complex of buildings involving phased completion or build-out.

Authorizes a county to deny a certificate of compliance, or issue a conditional or partial certificate of compliance and allow a building to be occupied if the inspector determines that the building does not comply with the fire code after an inspection of the completed building.

Requires a county that issues a conditional certificate of compliance to notify the owner of the building of the violations of the fire code and establish a reasonable time to remedy the violations.

Authorizes a county to revoke a conditional certificate of compliance if the owner does not remedy the violations within the time specified on the conditional certificate of compliance.

Prohibits a building from being occupied until a county issues a final, conditional, or partial certificate of compliance for the building.

Authorizing Municipal Donation of Alleyways to Adjacent Landowners—H.B. 2584

by Representative Rodney Anderson—Senate Sponsor: Senator Harris

Alleyways between buildings and residences are often used as access points for public utility workers such as electricians and maintenance crews. Many times, these alleys are legally owned by large cities, which incur all of the financial expenses associated with clearing trees, brush, weeds, and trash from the alleys, or otherwise maintaining them. Currently, municipalities sell abandoned alleys, but must comply with requirements associated with the sale of property, which can be time-consuming, costly, and burdensome. Additionally, alleyways often have little or no value to a municipality because the proceeds of such a sale can be used only to acquire or improve other property with a similar use or purpose. This bill:

Authorizes a municipality with a population greater than 150,000 and less than 200,000 that is located in three counties to donate alleyways that are determined to be surplus property of negligible or negative value to adjacent landowners.

Local Government Authority to Convey Real Property at Less Than Fair Market Value—H.B. 2690

by Representative Deshotel—Senate Sponsor: Senator Williams

Under current law, local government entities can exercise the right to sell or lease certain real property as well as donate land to the federal government for projects that serve a public purpose, but are limited in their ability to convey real property to other local governmental entities at or below fair market value. This bill:

Requires that notice to the general public of an offer of land for sale or exchange be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county, providing exceptions for certain types of lands and interests.

Authorizes a political subdivision to donate or sell a designated parcel of land or an interest in real property to another political subdivision for less than fair market value if it will be used for a public purpose, and provides that the right to possession of the land or interest reverts to the donating or selling political subdivision if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

Duties and Responsibilities of Certain County Officials and Functions of County Government—H.B. 2717

by Representative Darby—Senate Sponsor: Senator Carona

Currently, counties may assess a \$1.00 fee for the preservation of vital statistics records maintained by the county. Under current law, county clerks are required to complete 20 hours of continuing education each year. Currently, a person with a child younger than 15 years of age may seek an exemption from jury service. This bill:

Permits proceeds from the \$1.00 fee to be used for training related to maintenance of vital statistics records and for security measures in connection with maintaining such records.

Authorizes a county to electronically process checks issued for payment of a fee, fine, or other cost.

Clarifies the continuing education that must be completed each year.

Reduces the age of the child for which a person may seek an exemption from jury service to 12 years of age.

Repeals Section 191.030 (Records Filed With County), Health and Safety Code, because these records are available online.

Regulation of Outdoor Lighting in Certain Counties and Municipalities—H.B. 2857

by Representative Gallego—Senate Sponsor: Senator Uresti

The McDonald Observatory is one of the world's leading centers for astronomical research, teaching, public education, and outreach. The observatory operates a multi-faceted international public outreach program, including star parties, public tours, radio programs, and print and online publications. Observatory facilities are located atop Mount Locke and Mount Fowlkes in the Davis Mountains of West Texas. This location offers some of the darkest night skies in the continental United States and ensures the telescopes of the observatory have an unfettered view of the night sky. Unfortunately, poor outdoor lighting regulations coupled with the growth of surrounding communities in the area have resulted in light pollution that endangers the operations of the observatory. This bill:

Authorizes the counties and municipalities in a 57-mile radius of the observatory to establish provisions relating to the regulation of outdoor lighting. This would not apply to lighting in existence or under construction on January 1, 2012.

Extraterritorial Jurisdiction of Certain Municipalities—H.B. 2902

by Representative Zerwas—Senate Sponsor: Senator Hegar

Changing municipal extraterritorial jurisdiction (ETJ) boundaries can cause owners and developers of planned communities to face the challenge of developing property under the building standards of multiple jurisdictions. There have been cases when petitions representing the majority of property owners in a planned community are submitted to the governing body of a municipality, requesting that the municipality approve the release of the community's property from its ETJ in order to streamline the community's regulatory burden.

Additionally, in many areas of the state, city limits and their ETJs are often in close proximity to one another. This is especially true in fast-growth communities around the state. Current law allows written interlocal agreements that define the areas of each city's ETJ when it appears that land could be in overlapping ETJs. This bill:

Authorizes the ETJ of a municipality to be expanded through annexation to include an area that on the date of annexation is located in the ETJ of another municipality if a written agreement between the municipalities in effect on the date of annexation allocates the area to the ETJ of the annexing municipality.

Prohibits the ETJ of a municipality from being reduced unless the governing body of the municipality gives its written consent by ordinance or resolution, except in cases of judicial apportionment of overlapping ETJs or in accordance with an agreement under provisions of the bill.

Applies only to a general-law municipality that has a population of less than 3,000; is located in a county with a population of more than 500,000 that is adjacent to a county with a population of more than four million; and in which at least two-thirds of the residents reside within a gated community.

Requires a municipality to release an area from its ETJ not later than the 10th day after the date the municipality receives a petition requesting that the area be released that is signed by at least 80 percent of the owners of real property located in the area requesting release.

Identification Cards Permitting Entry to County Buildings—H.B. 3003

by Representative Hughes—Senate Sponsor: Senator Eltife

Current law authorizes the commissioners court of a county with a population of 2.8 million or more to issue an identification card to individuals permitting entrance into a county building that houses a justice court, county court, county court at law, or district court without passing through security. The commissioners court may set a reasonable fee for the issuance of the identification card to individuals other than county employees. To expand this authority to all counties, the population threshold must be removed. This bill:

Removes a population bracket to authorize all counties to allow the issuance of an identification card to individuals permitting entrance into a county building that houses a justice court, county court, county court at law, or district court without passing through the security services.

Cancellation of a Subdivision by a Commissioners Court—H.B. 3096

by Representative Kolkhorst—Senate Sponsor: Senator Carona

Under current law, if the owner of a tract of land located outside the limits of a municipality intends to divide the tract into a subdivision, lots, or portions dedicated to public use, the owner must file a plat, which must then be approved by the county commissioners court. Chapter 232 (County Regulation of Subdivisions), Local Government Code, stipulates that if the tract of land has been subdivided, the commissioners court may cancel all or part of the subdivision to re-establish the land as it had been prior to subdivision. Based on amendments to the statute by the 76th Legislature, the commissioners court may also deny a cancellation if it is determined the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development. However, there remains some confusion over whether the commissioners court could deny a request for cancellation of a subdivision if it had been platted prior to 1999. This bill:

Authorizes the commissioners court, regardless of the date land is subdivided or a plat is filed for a subdivision, to deny a cancellation under this section if the commissioners court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

Sale of Park Land Owned by Certain Municipalities—H.B. 3352

by Representative Wayne Smith—Senate Sponsor: Senator Gallegos

Current law requires a city to hold a citywide election for approval before selling, transferring, or conveying park land. However, some park lands are not used for a park or for recreational purposes and the expense of holding an election to approve selling or trading the land would be cumbersome. This bill:

Exempts the conveyance of certain park lands owned by a home-rule municipality that is located in a county with a population of more than three million, and has a population of more than 25,000 but less than 33,000, from provisions governing the sale of park lands, municipal building sites, or abandoned roadways in Section 253.001(b) (relating to sale of park land being prohibited unless by election), Local Government Code.

Board of Hospital Managers of the El Paso County Hospital District—H.B. 3462

by Representatives Margo et al.—Senate Sponsor: Senator Rodriguez

Interested parties contend that appointees to the board of hospital managers of the El Paso County Hospital District should meet certain qualification and approval criteria. This bill:

Prohibits the commissioners court from appointing a person to the board if the person is an employee of El Paso County, a district employee, or related within the third degree of consanguinity or affinity to a member of the commissioners court or to such a person described by this provision.

Establishes provisions relating to the composition of the board of hospital managers and to the removal of a board member.

Rudy Villarreal Road—H.B. 3841

by Representative "Mando" Martinez—Senate Sponsor: Senator Lucio

City of Alamo Mayor Rudy Villarreal has served in the United States Navy and in many different capacities for the city. This bill:

Designates the portion of Farm-to-Market Road 907 between U.S. Highway 281 and Owassa Road in Hidalgo County as Rudy Villarreal Road.

Requires the Texas Department of Transportation (TxDOT), subject to the provision that TxDOT is not required to design, construct, or erect a marker unless a grant or donation of funds is made to cover the cost of doing so, to design and construct markers indicating the highway number, the designation as Rudy Villarreal Road, and any other appropriate information, and erect a marker at certain sites along the road.

Proposing a Constitutional Amendment Relating to Permitting a County to Issue Certain Bonds or Notes—H.J.R. 63

by Representative Pickett—Senate Sponsor: Senator Wentworth

A provision of the Texas Constitution gives the legislature the power to authorize, by general law, an incorporated city or town to issue bonds for development or redevelopment of property and to pledge increases in property tax revenues for the repayment of those bonds or notes. However, that provision does not expressly give the legislature the power to grant that same bonding authority to counties. The absence of explicit language in this regard may mean that county-initiated tax increment financing provisions are potentially subject to constitutional challenge. This joint resolution:

Proposes a constitutional amendment authorizing the legislature to permit a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area and to pledge for repayment of the bonds or notes increases in ad valorem taxes imposed by the county on property in the area.

Municipal Contracts for Enforcement of Outstanding Traffic Violation Arrest Warrants—S.B. 86

by Senator Nelson—House Sponsor: Representative Sid Miller

Current law authorizes counties to refuse to register a vehicle to a person with an outstanding warrant for failure to appear or failure to pay a fine relating to a traffic violation by a municipality. However, only home-rule municipalities may take advantage of the program. This bill:

Expands the Scofflaw Program to include general-law municipalities, providing a county with the authority to refuse to register a vehicle to a person with an outstanding warrant for failure to appear or failure to pay a fine relating to a traffic violation by a general-law municipality.

Location of Cemeteries in Certain Municipalities—S.B. 131

by Senator Wentworth—House Sponsor: Representative Kuempel

Current law sets forth specific distance requirements, based on population size, regarding where a cemetery may be located. Certain municipalities wish to locate a cemetery, other than a family cemetery, within their boundaries but are unable to do so because of these requirements. This bill:

Authorizes a person to file a written application with the governing body of a municipality to establish or use a cemetery located within the boundaries of the municipality. Requires the municipality by ordinance to prescribe the information to be included in the application.

Authorizes a governing body by ordinance to authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Provides that this applies only to a municipality that is located in three or more counties, has a population of 18,000 or more, and does not have a cemetery within its boundaries, other than a family cemetery.

Civil Remedy of Violations of Certain Municipal Health and Safety Ordinances—S.B. 173

by Senator West—House Sponsor: Representative Dutton

Health and safety violations in multi-family and single-family rental properties have increased in recent years. Although many municipalities have increased enforcement actions against those properties that habitually violate habitability standards, loopholes within existing statutes have allowed property owners to avoid these penalties by transferring the property to other entities. To close these loopholes, the Local Government Code must be amended to clarify that actions required by a municipality to remedy code violations are not nullified upon sale. This bill:

Authorizes a home-rule municipality to bring an action in district court against an owner of property that is not in substantial compliance with a municipal ordinance.

Authorizes the court to appoint a nonprofit organization or an individual with a demonstrated record of rehabilitating properties as a receiver for the property.

Office of County Treasurer—S.B. 373

by Senator Duncan—House Sponsor: Representative Darby

Changes are needed to bring statutory language into alignment with current county treasury practices, procedures, and verbiage. This bill:

Clarifies and modernizes language to reflect current county treasurer terminology.

Creates a new statute prescribing the bond and oath requirement for assistant treasurers and treasury deputies and updates education requirements for new treasurers.

Amends the Local Government Code to provide for the appointment of assistant treasury deputies and details the surety bond required for assistant treasurers and treasury deputies.

Clarifies and modernizes language for the reconciliation of bank statements.

Amends the Local Government Code to expand the statute to cover any other person who collects county funds and deletes outdated language pertaining to the deposit of money collected by a fee officer.

Community Land Trusts—S.B. 402

by Senator West—House Sponsor: Representative Oliveira

Community land trusts (CLTs) have been successfully used in other states to develop vacant and blighted land for permanent affordable housing. Under this model, the CLT sells a home at a restricted sales price and leases the underlying land to the homeowner through a long-term renewable lease, providing an opportunity for homeownership for low-income families who would otherwise be unable to afford it. This bill:

Defines a "community land trust."

Authorizes a city or county by ordinance or order to create or designate a CLT, including those operated by a housing finance corporation or either a city or county-certified community housing development organization.

Defines the income qualifications for the single-family and multi-family units within the CLT. Provides that the land and improvements within the CLT be valued similarly to other property used for affordable housing in Texas and authorizes an optional municipal or county tax exemption, approved by the governing body, for the property within the CLT.

Authority of Local Government Entities to Borrow Money for a Public Hospital—S.B. 494

by Senator Fraser—House Sponsor: Representative Craddick

Most public hospitals currently have authority to borrow only through general obligation or revenue bonds and have no authority to borrow from a bank. Conversely, private and nonprofit hospitals are not excluded from short-term borrowing from a bank. This bill:

Authorizes a local governmental entity to borrow money for purposes of a hospital owned or operated by the entity and to pledge hospital assets or revenue to secure a loan for that purpose.

Requires such a loan to mature not later than one year if taxes are pledged to repay the loan, and not later than five years if hospital revenue is pledged to repay the loan.

Extraterritorial Jurisdiction of Certain Municipalities Located on a Barrier Island—S.B. 508

by Senator Lucio—House Sponsors: Representatives Lozano and Oliveira

In 2007, the 80th Legislature granted the Town of South Padre Island a five-mile extraterritorial jurisdiction because the town is in an environmentally sensitive area of the state. Due to its location on a barrier island, the town faces unique challenges to development. The extended jurisdiction has allowed the town to better protect the beach and dune system of southern South Padre Island and to enhance development opportunities that take advantage of the island. There is concern that the changes made in 2007 may have inadvertently removed the Town of South Padre Island's half-mile extraterritorial jurisdiction into the waters, making it difficult for the town to enforce its own ordinances to protect the shoreline and boating safety laws. This bill:

Provides that, regardless of certain specifications relating to the extraterritorial jurisdiction of a municipality, the extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries

of the municipality and that is located within five miles of those boundaries on a barrier island or within one-half mile of those boundaries off a barrier island.

Provides that the second provision above regarding such extraterritorial jurisdiction applies only to a municipality that has a population of 2,000 or more and has territory located entirely on a barrier island in the Gulf of Mexico and within 30 miles of an international border.

Validation of a Home-Rule Charter for Certain Municipalities—S.B. 509

by Senator Lucio—House Sponsor: Representative Lozano

As a result of recent litigation challenging elections relating to the extraterritorial jurisdiction of municipalities, the Town of South Padre Island is interested in having legislative validation of its home-rule election held on November 3, 2009. This bill:

Validates the home-rule charter of a general-law municipality that by an election adopted a home-rule charter after June 1, 2009, and before December 31, 2009, as of the date of the election, and lists certain situations in which the provision does not apply.

Exemption of Certain Property From Municipal Drainage Service Charges—S.B. 609

by Senator Rodriguez—House Sponsor: Representative Naomi Gonzalez

The City of El Paso has the authority to charge drainage fees to property owners to make improvements designed to reduce flooding and address the appropriate drainage of storm water. Current law exempts the city, universities, and state buildings from paying the fee. In addition, legislation passed by the 81st Legislature exempted El Paso County and school districts located within the county from the drainage fee. This bill:

Exempts the El Paso Housing Authority from the drainage fee and related ordinances, resolutions, and rules.

Term Length and Renewal of Interlocal Contracts—S.B. 760

by Senator West—House Sponsor: Representative Turner

Chapter 791 (Interlocal Cooperation Contracts), Government Code, governs the ability of local governments to enter into contracts with other entities. The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state. While the Texas Legislature has encouraged municipalities and counties to jointly provide services through the use of the Act, specific provisions have limited its use by local governments, specifically Section 791.011(f), Government Code, which contains a requirement that contracts must be "renewed annually." As a result, many cities and counties only use this statute to provide for the financing of short-term projects and do not use it to undertake long-term projects, such as jointly constructing infrastructure and other facilities. This bill:

Authorizes an interlocal contract between municipalities or counties to have a specified term of years, notwithstanding Subsections (d) (requiring an interlocal contract to meet certain requirements) and (f) (authorizing an interlocal contract to be renewed annually) under Section 791.011, Government Code.

Notice by Sign Requirements for Sexually Oriented Businesses—S.B. 1030

by Senator Carona—House Sponsor: Representative Anchia

Under current law, a person applying for a sexually oriented business license is required to post intent to apply for such a license "for a location not previously licensed or permitted," not later than the 60th day before the date the application is filed, stating that a sexually oriented business is intended to be located on the premise and providing the name and business address of the applicant. Because current statute specifies that signage must be posted "for a location not previously licensed or permitted," a location that has at any time held a license for sexually oriented business is not required to post. This could include a vacant building, or a building which at the time houses a non-sexually oriented business. The result is that some sexually oriented businesses are not required to post a sign stating an intent to open at a particular location. This bill:

Requires that any applicant for a sexually oriented business license or permit for a location not currently or previously licensed or permitted post the sign required under Section 243.0075(a) (relating to conditions when a sexually oriented business must post a sign), Local Government Code, stating that a sexually oriented business is intended to be located on the premises and providing the name and business address of the applicant, not later than the 60th day before the date the application is filed.

Promoting Efficiency of County Services—S.B. 1233

by Senator West—House Sponsor: Representative Coleman

A number of statutes direct the function and authority of local government, and clarification of those statutes is often necessary to make local government more efficient and effective and to avoid the duplication of services and responsibilities. This bill:

Clarifies certain roles and responsibilities for county services to avoid delays in justice, to promote efficiency in the administration of county services, and to update certain statutes.

County Risk Management—S.B. 1243

by Senator West—House Sponsor: Representative Coleman

Before assuming their duties of office, certain county and district officers must execute a surety bond. Following the recent general elections, a number of county officers and officers-elect had difficulty obtaining the requisite bond. It has been reported that private surety companies have refused to issue or extend the necessary bond, either without explanation, or for reasons unrelated to an individual's ability to perform the duties of the office. An officer's difficulty obtaining a surety bond or equivalent coverage in a timely manner threatens the uninterrupted performance of the duties of office to which the individual was elected. This bill:

Permits a commissioners court to allow officials to satisfy the bond execution requirements by obtaining equal coverage from a county intergovernmental risk management pool.

Authorizes a self-insuring county or intergovernmental pool to require reimbursement for the provision of punitive damage coverage from a person to whom the county or intergovernmental pool provides coverage.

Platting Requirements Affecting Subdivision Golf Courses in Certain Counties—S.B. 1789

by Senator Patrick—House Sponsor: Representative Bohac

Some attempts to redevelop golf courses in residential communities as commercial property have been strongly opposed by the residents in the communities. As a result, the 80th Legislature enacted Section 212.0155 (Additional Requirements for Certain Replats Affecting a Subdivision Golf Course), Local Government Code, to establish limitations on this type of redevelopment within certain counties and cities. In the 81st Legislature, Section 212.0155 was expanded to include additional areas. This bill:

Amends Section 212.0155, Local Government Code, to increase population brackets so that the protections provided in that section will apply to the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

Colonel H. William "Bill" Card, Jr., Outpatient Clinic—S.B. 1926

by Senator Lucio—House Sponsor: Representative Lucio III

In 2009, H.B. 4642, 81st Legislature, Regular Session, was enacted to name the outpatient clinic operated by the South Texas Health Care System in Harlingen, Texas after two individuals. In 2011, one of those individuals pleaded guilty to federal charges. This bill:

Removes the name of Representative Jim Solis from the Representative Jim Solis and Colonel H. William "Bill" Card, Jr., Outpatient Clinic operated by the South Texas Health Care System in Harlingen, Texas.

Proposing a Constitutional Amendment Authorizing the Legislature to Allow Cities or Counties to Enter Into Interlocal Contracts With Other Cities or Counties—S.J.R. 26

by Senator West—House Sponsor: Representative Turner

Observers note that cities and counties have been encouraged to jointly administer programs under certain provisions of law but constitutional requirements have inhibited that collaboration. While numerous cities and counties in Texas have expressed the need and desire to consolidate services and programs, the interpretation of certain statutory and constitutional provisions has impeded the ability of these local governments to increase efficiency by contracting with each other to jointly provide services. This joint resolution:

Proposes a constitutional amendment authorizing the legislature to allow cities or counties to enter into interlocal contracts with other cities or counties without the imposition of a tax or the provision of a sinking fund.

Disclaimers for Lists of Noxious or Invasive Terrestrial Plant Species—H.B. 338

by Representative Aycock—Senate Sponsor: Senator Seliger

The Texas Department of Agriculture (TDA) is required to publish a list regarding invasive and noxious terrestrial plants in Texas. Other state agencies, as well as municipalities and other political subdivisions, produce lists of terrestrial plant species those entities consider noxious or invasive and distribute such lists through printed materials or on the entity's Internet website. This bill:

Requires a public entity, other than TDA, that produces a list of noxious or invasive terrestrial plant species that includes a species growing in Texas for public distribution to commercial or residential landscapers, to provide with the list a disclaimer stating that the list is a recommendation and has no legal effect and that it is lawful to sell, distribute, import, or possess a plant on the list unless TDA labels the plant as noxious or invasive on TDA's plant list.

Regulations of Substances Containing Animal Manure or Plant Remains—H.B. 1969

by Representative Christian—Senate Sponsor: Senator Nichols

Manure and fertilizer serve important but separate functions with regard to agriculture. The primary function of fertilizer is to provide essential nutrients to the soil to encourage plant growth. Manure provides organic matter to the soil, increasing the soil's moisture content and allowing for an increase in water retention capacity in sandy soils and both drainage and bio-aeration in clay-rich soils. This bill:

Redefines "fertilizer material," "mixed fertilizer," "manipulated manure," and "specialty fertilizer" in Sections 63.001(8), (11), (12), and (16), Agriculture Code.

Provides that animal manure, rather than the excreta of an animal, plant remains, or mixtures of those substances, is not considered to be a commercial fertilizer if no specific nutrient analysis claim indicates a guaranteed nutrient level.

Electronic Filing of Livestock Marks and Brands by County Clerks—H.B. 2108

by Representatives Paxton and Hardcastle—Senate Sponsor: Senator Estes

Owners of certain livestock are currently required to file brands, earmarks, tattoos, electronic devices, and other types of marks on those animals with the county clerk and to rerecord those marks every 10 years. This manual filing and rerecording process is time-consuming for a county clerk and may require additional labor in some counties. This bill:

Authorizes a county clerk to accept electronic filing or rerecording of an earmark, brand, tattoo, electronic device, or other type of mark for which a recording is required.

Urban Farm Microenterprise Support Program—H.B. 2994

by Representative Miles—Senate Sponsor: Senator Estes

Although Texas leads almost every other state in terms of agriculture production, it lags behind in terms of technological advancements in urban agriculture. According to some sources, this has resulted in a lack of access to affordable fruits, vegetables, whole grains, low-fat milk, and other healthy foods in urban areas. With the advancement of technology and an increase of interest in healthier foods, urban farming is seen as a viable solution to this problem. This bill:

Requires the board of directors of the Texas Agriculture Finance Authority to create an Urban Farm Microenterprise Support Program to provide financial assistance to small, owner-operated enterprises that are engaged in research and production of agriculture technology and tools that are intended for use in urban areas.

Sets forth requirements relating to the operations and funding of the Urban Farm Microenterprise Support Program.

Creation of the Texas Urban Agricultural Innovation Authority—H.B. 2996 [Vetoed]

by Representative Miles—Senate Sponsor: Senator Estes

Urban agriculture is the practice of cultivating, processing, and distributing food in or around a city and can also involve animal husbandry, aquaculture, agro-forestry, and horticulture. Texas lags behind other states in the research and advancement of urban agriculture even though Texas is one of the largest agriculture producing states. Increased urban agriculture would help improve access to healthy foods, would expand entrepreneurial activities, economic activity, and job opportunities in a city through production, processing, packaging, and marketing of consumable products, and would reduce food costs, while providing higher quality food products. This bill:

Establishes the Texas Urban Agricultural Innovation Authority within TDA as a public authority to promote the creation and expansion of urban agricultural projects.

Sets forth requirements relating to the composition of the board of directors of the Texas Urban Agricultural Innovation Authority.

Sets forth requirements relating to the powers and operations of the Texas Urban Agricultural Innovation Authority.

Creation of the Urban Farming Pilot Program and Select Committee on Urban Farming—H.B. 2997 [Vetoed]

by Representative Miles—Senate Sponsor: Senator Estes

Although Texas is one of the largest agricultural states in terms of agricultural production, the state has fallen behind other states in the research and advancement of urban agriculture. In addition, many urban areas in Texas lack access to the resources produced by the state's agricultural industry. This bill:

Requires TDA to develop and implement an urban farming pilot program by rule through which TDA will award grants, if funding for grants is available, to urban farmers to establish new urban farms and expand existing urban farms.

Creates a select committee on urban farming to conduct an interim study regarding the urban farming pilot program and provide recommendations to the Texas Legislature.

Repeal of Requirements and Penalties Related to Grading of Roses—H.B. 3199

by Representative Cain—Senate Sponsor: Senator Estes

The TDA Sunset bill, passed by the 81st Legislature, repealed a provision of the Agriculture Code relating to the issuance by TDA of a certificate of authority for the grading of rose plants. Since TDA no longer issues these certificates, the authorization is no longer needed. This bill:

Removes TDA's authorization to adopt rules and procedures related to the inspection and enforcement of rose grading requirements for all rose plants sold or offered for sale within this state.

Fishing With Certain Archery Equipment in Certain Counties—H.B. 3808

by Representative Tracy O. King—Senate Sponsor: Senator Uresti

In response to the concerns of landowners about individuals discharging firearms or shooting arrows from bows on the landowners' properties along waterways in certain counties, the legislature enacted legislation prohibiting the discharge of such weapons along certain navigable rivers and streams in Texas. That statutory provision, however, unintentionally prohibited bowfishing, which involves spearing fish by discharging a barbed fishing arrow from a bow equipped with a reel. This bill:

Authorizes a person to engage in bowfishing under certain conditions, and maintains the prohibition against discharging other weapons that do not meet the legal requirements for bowfishing.

Agricultural Projects and Eligibility of Nonprofit Organizations to Receive Grants—S.B. 199

by Senator West—House Sponsor: Representative Hernandez-Luna

Current law allows elementary schools and middle schools in large urban districts to apply to TDA for grants to fund agriculture demonstration projects designed to foster an understanding and awareness of agriculture and horticulture among urban school students. To permit nonprofit organizations such as the Future Farmers of America (FFA) and 4-H clubs to partner with elementary and middle schools in application for the grants administered by TDA, the Agriculture Code must be amended. This bill:

Authorizes TDA to award a grant to a nonprofit organization that partners with a school described in Section 48.001(a) (relating to a program to award grants to public elementary and middle schools located in large urban school districts), Agriculture Code.

Provides requirements for eligibility of a public elementary or middle school, or a nonprofit organization that partners with the school, to receive a grant.

Cotton Stalk Destruction Program Deadline Extensions—S.B. 378

by Senator Hegar—House Sponsor: Representative Hunter

The Cotton Stalk Destruction program assists cotton producers in suppressing boll weevil and pink bollworm populations through area-wide stalk destruction. Deadlines for the program are recommended by regional Cotton Producer Advisory Committees in consultation with the Texas Boll Weevil Eradication Foundation and published by TDA in rule. By rule, TDA adopted a 10-day, rather than 10 business days, requirement for unharvested cotton. To accommodate unforeseen circumstances that may hinder a cotton producer's ability to make an extension request by the deadline in statute, the extension request submission date is allowed to be changed administratively to ensure that producers are given a reasonable opportunity to make an extension request. This bill:

Requires that a request to TDA to grant an extension of the cotton stalk destruction deadline for any specified part of a pest management zone or for an entire pest management zone be made within a period specified by TDA rule, rather than requiring that a request be made at least 10 business days before the applicable cotton stalk destruction deadline.

Regulation of the Import, Export, and Management of Mule Deer—S.B. 460

by Senator Seliger et al.—House Sponsor: Representative Hunter

A deer management permit is considered by many as a landowner tool for white-tailed deer management, propagation, and hunting. The permit allows the permit holder, in accordance with certain prescribed standards, to temporarily detain white-tailed deer in enclosures on the property covered by the permit for the purpose of natural breeding. The deer and their offspring are then released to enhance the overall genetics of the herd. Interested parties contend that similar landowner management tools have been proven to work just as well for mule deer, and, for this reason, legislation is needed that will allow landowners and mule deer managers the opportunity to utilize the same tools as those used for white-tailed deer. This bill:

Extends the deer management permit program currently available for white-tailed deer managers by authorizing the Texas Parks and Wildlife Department to issue a permit for the management of wild mule deer.

Limiting Liability of Certain Persons for Farm Animal Activities—S.B. 479

by Senator Estes—House Sponsor: Representative Sid Miller

Chapter 87 of the Civil Practices and Remedies Code, the "Equine Law," was originally introduced and passed with the backing of the Texas equine industry to alleviate the liability concerns of property owners who sponsor equine events, such as jumping and cutting. Current law only limits liability incurred by property owners for equine activities. This raises concerns for property owners that sponsor events in which other farm animals, including bovine, are featured because they have no protection and are exposed to liability for any injury caused by any non-equine animal. This bill:

Amends Chapter 87 of the Civil Practices and Remedies Code to protect property owners from exposure to liability for injuries caused by non-equine farm animals.

Trapping and Transport of Surplus White-Tailed Deer—S.B. 498

by Senator Jackson—House Sponsor: Representative Phillips

Currently, a permit to trap and transport surplus white-tailed deer may be issued by the Parks and Wildlife Department (TPWD) only to a political subdivision or a property owners' association. An individual landowner, which may include an owner of a ranch or an industrial facility, may use such a permit only if the political subdivision that encompasses the landowner's property applies for the permit on the landowner's behalf. The permit was originally created to assist political subdivisions and property owners' associations with deer overpopulation, and the statute was crafted specifically to address that need. Since then, the permit has proven to be of considerable benefit, and individual landowners would like to have access to such permits to reduce deer population without having to secure permission from an authority other than TPWD. This bill:

Includes a qualified individual among the parties to whom TPWD may issue a permit authorizing the trapping and transporting of surplus white-tailed deer found on the property owned by the individual.

Oyster Shell Recovery and Replacement Program—S.B. 932

by Senator Williams—House Sponsor: Representative Eiland

Texas is second only to Louisiana in eastern oyster production in the United States, historically producing about 20 percent of the nation's annual eastern oyster harvest. However, from 2003 to 2009, the number of pounds of oysters harvested and delivered to a dealer fell by 50 percent from the 10-year average. This bill:

Amends Section 76.020 (Oyster Shell Recovery and Replacement Program), Parks and Wildlife Code, to allow any suitable cultch material to be used in the coastal waters to maintain public oyster reefs.

Requires TPWD to sell harvester/shellfish restoration tags.

Establishes the oyster shell recovery and replacement program account as a separate account in the game, fish, and water safety account.

Sets forth requirements for the price and placement of the tags and specifies that funds generated from the tags will be used to replace cultch material onto public reefs within bay systems along the Texas coast.

Authorizing Counties to Finance the Acquisition of Conservation Easements—S.B. 1044

by Senators Watson and Jackson—House Sponsor: Representative Ritter

The Texas Farm and Ranch Lands Conservation Program (TFRLCP) was created by the 79th Legislature as a voluntary program to provide funds for agricultural conservation easements to help willing landowners maintain ownership of their agricultural land while protecting the state's open spaces and natural resources for future generations. It is unclear under current law whether a county may issue a debt instrument to help finance the acquisition of a conservation easement since the county would not hold full title to the land. Current law also does not clearly authorize a county as a qualified easement holder under TFRLCP. This bill:

Authorizes a county, in addition to other methods of financing, to finance the acquisition of a conservation easement in the same manner as permitted for that county under Section 331.004 (Bonds and Taxes), Local Government Code, for the acquisition or improvement of land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes, or Section 271.045 (Purposes for Which Certificates May be Authorized), Local Government Code, for land and rights-of-way.

Clarifies that a county is eligible to participate as partner in the TFRCLP, and redefines "qualified easement holder" to clarify that counties may use bond proceeds to finance the purchase of a conservation easement.

Requires an applicant who is qualified to be an easement holder to submit an application to the Texas Farm and Ranch Lands Conservation Council to receive a grant from the fund. Sets forth requirements for the content of the application.

Rural Economic Development and the Marketing and Promotion of Agricultural Products—S.B. 1086

by Senator Estes—House Sponsor: Representative Hardcastle

The Legislative Budget Board (LBB) has encouraged TDA to apply cost recovery models to continue offering certain critical services. TDA has developed a plan to offer certain voluntary economic development and marketing opportunities at a fee for Texas communities and businesses. However, statutory changes are necessary to provide TDA the specific authority to implement these solutions. This bill:

Authorizes TDA by rule to charge a membership fee to each participant in the economic development program administered by TDA.

Authorizes TDA to create, distribute, and provide informational materials to the public in any type of media format in order to market and promote agricultural and other products grown, processed, or produced in this state.

Authorizes TDA to sell advertising and assess and collect fees, revenues, and royalties on TDA-owned content, information, or materials related to providing or selling information to the public concerning agriculture, horticulture, including state or federally registered certification marks, service marks, and trademarks to recover the costs of administering certain activities.

Authorizes TDA to sell or contract for the sale of "Go Texan" promotional items and program merchandise to encourage the marketing and promotion of agricultural and other products grown, processed, or produced in this state.

Sets forth requirements specifying how funds generated from such fees may be used, and authorizes TDA to adopt necessary rules to administer the fees and promotional programs.

Registration of Animal Tattoos—S.B. 1356

by Senator Estes—House Sponsor: Representative Hardcastle

Current law provides that a person who owns one or more horses, hogs, dogs, sheep, or goats may register with the Department of Public Safety of the State of Texas (DPS) any tattoo mark or other generally accepted identification method that is not previously recorded. This method of tattoo registration has rarely been used because most individuals register tattoos for livestock directly with the county. This bill:

Repeals Subchapter E (Registration of Animal Tattoo Marks), Chapter 144 (Marks and Brands), Agriculture Code, authorizing a person to register animal tattoos with DPS, so that a person would simply register the marking with the county.

Redemption and Impoundment of Estrays—S.B. 1357

by Senator Estes—House Sponsor: Representative Hardcastle

If stray livestock, stray exotic livestock, or stray exotic fowl wander onto another owner's property, those estrays are subject to Chapter 142 (Estrays), Agriculture Code, which includes, but is not limited to, provisions for redemption, impoundment, and recovery. Clarity is needed so that the owner of the estray and the owner of the public or private property both have a fair opportunity to recover the strayed livestock or expenses for holding the estray. This bill:

Authorizes the owner of the estray to redeem the estray from the property owner or occupant if the owner of the estray and the owner or occupant of the property agree to a redemption payment amount and the owner or occupant of the property receives the redemption payment from the owner of the estray, or a justice court having jurisdiction determines the redemption payment amount and gives the owner of the estray written authority to redeem the estray

Clarifies that disputes between the owners of the estray and the property owners or occupants relating to the value of redemption payment or compensation for damages to the property by the estray shall be settled in court by a justice of the peace.

Establishes a deadline of five days after notification by the sheriff or the sheriff's designee, by which time owners of an estray must redeem the estray or the sheriff or the sheriff's designee will impound the estray.

Authorizes the original owner of the estray, not later than the 180th day, rather than within one year, after the date of sale of an estray to recover the net proceeds of the sale if certain conditions are met.

Regulation of Exotic Aquatic Species—S.B. 1480

by Senator Hegar—House Sponsor: Representative Darby

H.B. 3391, 81st Legislature, Regular Session, 2009, which was TPWD Sunset bill, included a provision that required TPWD to move from a "black list" of exotic aquatic plants that are prohibited in this state to a "white list" of plants that are allowed. TPWD worked throughout the interim to establish an Exotic Aquatic Plant White List and accompanying rules. After months of deliberation between TPWD and stakeholders, it became evident that the proposal was neither enforceable or realistic for Texas. Approval of such a measure would have severely impacted the state's economy and the biofuel, nursery, and gardening industries throughout Texas. This bill makes statutory changes to return the regulation of exotic aquatic plants to a "black list" or "prohibited list" approach. This bill:

Prohibits a person from importing, possessing, selling, or placing into the public water of this state an exotic harmful or potentially harmful aquatic plant, or exotic harmful or potentially harmful fish or shellfish, except as authorized by Texas Parks and Wildlife Commission rule or a permit issued by TPWD.

Requires TPWD to publish a list of exotic aquatic plants, fish, and shellfish for which a permit is required.

Requires a person, on leaving any public or private body of water in this state, to immediately remove and lawfully dispose of any exotic aquatic plant on the list of prohibited plants.

Idling of Motor Vehicles—H.B. 1906

by Representative Donna Howard—Senate Sponsor: Senator Fraser

Idling vehicles emit the same pollutants that form unhealthy smog and soot as those from moving vehicles. Nitrogen oxide, particulate matter, carbon monoxide and volatile organic compounds are the main health-harming pollutants in vehicle emissions. This bill:

Provides that notwithstanding any other law, it is a Class C misdemeanor under Section 7.1831 (Violation of Locally Enforced Motor Vehicle Idling Limitations), Water Code, if a person violates a rule adopted by the Texas Commission on Environmental Quality concerning locally enforced motor vehicle idling limitations.

Measuring, Monitoring, and Reporting Emissions—H.B. 1981

by Representatives Wayne Smith and Hernandez Luna—Senate Sponsor: Senator Gallegos

The Texas Commission on Environmental Quality (TCEQ) maintains an air pollutant watch list (list) to alert technical staff to cities or counties within the state that have areas with elevated air concentrations of special interest pollutants. This bill:

Requires TCEQ to establish and maintain a list that identifies each air contaminant TCEQ determines should be included on the list and each geographic area of the state for which ambient air quality monitoring data indicates that the individual or cumulative emissions of one or more air contaminants identified by TCEQ may cause short-term or long-term adverse human health effects or odors in that area.

Requires TCEQ to publish notice of and allow public comment on additions or removals of air contaminants on the list and additions or removals on areas from the list.

Requires TCEQ, when considering the addition of an area to the list or removal of an area from the list, to provide the monitoring data related to the area to the state senator and representative who represent the area.

Authorizes TCEQ to hold a public meeting in an area listed on the air pollutant watch list to provide residents of the area with information regarding the reasons for the area's inclusion on the list and TCEQ's actions to reduce the emissions of air contaminants contributing to the area's inclusion on the list.

Provides that the list and the addition or removal of a pollutant or area to or from the list are not matters subject to the requirements of Subchapter B (Rulemaking), Chapter 2001 (Administrative Procedure), Government Code.

Requires TCEQ to incorporate reported emissions events in a permanent online centralized database that is easily searchable and accessible to the public.

Requires TCEQ to annually, or at the request of a member of the legislature, access the information.

Requires the state agency responsible for the information submitted to the state emergency response commission, when immediate notification of a release by a facility to the state emergency response commission is required in accordance with the Emergency Planning and Community Right-to-Know Act on receipt of the required notification, to make a determination as to whether the release reported will substantially endanger human health or the environment.

Requires the responsible state agency, if the agency determines that a release will substantially endanger human health or the environment, on request, to notify the state senator or representative who represents the area in which the facility is located of the release within four hours of receipt of the original notification.

Permits for Air Contaminant Emissions of Stationary Natural Gas Engines—H.B. 3268

by Representative Lyne—Senate Sponsor: Senator Estes

Small natural gas reciprocating engines and combustion turbines are considered to be essential to combined heat and power applications. An entity applying for a permit for a combined heat and power unit must comply with the criteria for the standard permit for an electric generating unit or go through the full permitting process. This bill:

Requires TCEQ to issue a standard permit or permit by rule for stationary natural gas engines used in a combined heating and power system that establishes emission limits for air contaminants released by the engines.

Authorizes TCEQ to consider certain usage, location, technology, fuel types, operation, and control policies regarding the stationary natural gas engine.

Prohibits TCEQ, in adopting a standard permit or permit by rule from distinguishing between the end-use functions powered by a stationary natural gas engine.

Requires TCEQ to provide for the emission limits for stationary natural gas engines to be measured in terms of air contaminant emissions per unit of total energy output. Requires TCEQ to consider the primary and secondary functions when determining the engine's emissions per unit of energy output.

Idling of Motor Vehicles—S.B. 493

by Senator Fraser—House Sponsor: Representative Wayne Smith

Federal law requires commercial truck drivers to take periodic rest breaks. In Texas, during many months of the year, it is impossible for a driver to get the rest he or she needs without air conditioning or heat. Trucks not equipped with auxiliary power units (APU) must idle in order to run these environmental systems. This bill:

Prohibits TCEQ from prohibiting or limiting the idling of any motor vehicle with a gross vehicle weight rating greater than 8,500 pounds that is equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit more than 30 grams of nitrogen oxides emissions per hour when idling.

Requires that the maximum gross vehicle weight limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction system, notwithstanding any provision to the contrary, be increased by an amount necessary to compensate for the additional weight of the idle reduction system.

Projects Funded Through the Texas Emissions Reduction Plan—S.B. 527

by Senator Fraser et al.—House Sponsor: Representative Geren et al.

The Texas Emissions Reduction Plan (TERP) was created with the goal of ensuring that the air in Texas is safe to breathe and meets federal air standards. The Legislative Budget Board (LBB) recommended elimination of the New Technology Research Program (program) under TERP. TCEQ recommended that the program be eliminated in favor of installing new air monitors. This bill:

Requires TCEQ and the comptroller of public accounts, under TERP, to provide grants or other funding for air quality research support, the regional air monitoring program, a health effects study, air quality planning activities, and a contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for computation of credible statewide emissions reduction.

Authorizes money in the TERP fund (fund) to be used only to implement and administer the programs established under TERP and requires that the total appropriation be allocated in a certain manner, including the following provisions:

- requires that five percent be used for the clean fleet program;
- requires that not more than \$7 million is to be allocated in 2012 and 2013 and not more than \$3 million is to be allocated in 2014 and in subsequent years to fund a regional air monitoring program in TCEQ Regions 3 and 4 to be implemented under TCEQ's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the regional air monitoring program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;
- requires a specified amount to be allocated each year to support research related to air quality;
- requires that up to \$500,000 be deposited in the state treasury to the credit of the clean air account to supplement funding for air quality planning activities in affected counties;
- allocates not more than \$216,000 to TCEQ to contract with the Energy Systems Laboratory at the Texas Engineering Station annually for the development and annual computation of credible statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan;
- allocates not more than \$3,400,000 to TCEQ for administrative costs incurred by TCEQ;
- allocates 1.5 percent of the money in the fund for administrative costs incurred by the laboratory; and
- allocates the balance to TCEQ for the diesel emissions reduction incentive program.

Abolishes the program and creates the Air Quality Research Support Program.

Compliance With Certain Permits as a Defense for Certain Actions for Nuisance or Trespass—S.B. 875

by Senator Fraser—House Sponsor: Representative Hancock et al.

The United States Environmental Protection Agency (EPA) is attempting to regulate greenhouse gas emissions by changing the Federal Clean Air Act. The Clean Air Act gives EPA important enforcement powers. This bill:

Provides that a person, as defined by Section 382.003 (Definitions), Health and Safety Code, who is subject to an administrative, civil, or criminal action brought under Chapter 7 (Enforcement), Water Code, for nuisance or trespass arising from greenhouse gas emissions has an affirmative defense to that action if the person's actions that resulted in the alleged nuisance or trespass were authorized by a rule, permit, order, license, certificate, registration, approval or other form of authorization issued by TCEQ or the federal government or an agency of the federal government and the person was in substantial compliance with that rule, permit, order, license, certificate, registration, approval or other form of authorization while the alleged nuisance or trespass was occurring or TCEQ or the federal government exercised enforcement discretion in connection with the actions that resulted in the alleged nuisance or trespass.

Provides that Section 7.257 (Defense to Nuisance or Trespass), Water Code, as added by this bill, does not apply to nuisance actions solely based on a noxious odor

Operation of a Rock Crusher or Certain Concrete Plants Without a Permit—S.B. 1003

by Senator Fraser—House Sponsor: Representative Wayne Smith

Currently, TCEQ has no discretion when assessing environmental penalties on operators whose permits have expired. This bill:

Provides that, except as provided by the following paragraph, the amount of the penalty for operating a rock crusher or concrete plant that performs wet batching, dry batching, or central mixing, that is required to obtain a certain permit under the Health and Safety Code, and that is operating without the required permit is \$10,000. Provides that each day that a continuing violation occurs is a separate violation.

Authorizes TCEQ, if a person operating a facility as described by the preceding paragraph holds any type of permit issued by TCEQ other than the permit required for the facility, to access certain penalties.

Authorizes TCEQ to issue an emergency order suspending operations of a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing and is required to obtain a certain permit under the Health and Safety Code, and is operating without the necessary permit.

Regulations for Certain Aggregate Production Operations—H.B. 571

by Representative Huberty et al.—Senate Sponsor: Senator Williams

The Texas Commission on Environmental Quality (TCEQ) is responsible for enforcing a myriad of existing laws, rules, and regulations which apply to the removal of aggregate materials, such as rock, sand, gravel, and even dirt or soil, from a pit or from the ground. TCEQ's regulatory authority includes water quality requirements for discharges of storm water or other water used in the mining process, air quality requirements for emissions from rock crushers or other activities at a quarry site, and requirements for cleanup and reporting of spills of petroleum products or solid waste. An aggregate production operation (operation) can remove materials in remote locations without TCEQ's knowledge and without the proper authorizations designed to protect water and air quality. This bill:

Requires the responsible party for an operation to register the operation with TCEQ not later than the 10th business day before the beginning date of extraction activities and to renew the registration annually as extraction activities continue.

Provides that the requirements of Chapter 28A (Registration and Inspection of Certain Aggregate Production Operations) are not applicable to the operation after extraction activities at the operation have ceased and the operator has notified TCEQ in writing.

Requires TCEQ to annually conduct a physical survey to identify all operations in this state and to ensure that each active operation in this state is registered with TCEQ.

Requires that TCEQ contract with or seek assistance from a governmental entity or other person to conduct an annual survey to identify active operations that are not registered under this chapter.

Requires that TCEQ inspect each active operation for compliance with applicable environmental laws and rules under the jurisdiction of TCEQ at least once every three years.

Requires that TCEQ conduct an inspection only after providing notice to the responsible party in accordance with TCEQ policy.

Requires that except if an investigation in response to a complaint satisfies the requirement of an inspection if a potential noncompliance issue not related to the complaint is observed and is not within certain areas of expertise, an inspection be conducted by one or more inspectors trained the regulatory requirements under the jurisdiction of TCEQ that are applicable to an active operation. Provides that each inspector is not required to be trained in each of the applicable regulatory requirements, but the combined training of the inspectors is required to include certain applicable regulatory requirements.

Requires TCEQ to provide a specific section in the annual enforcement report certain results and information relating to the physical survey.

Requires that a person who, under the laws in TCEQ's jurisdiction and rules adopted under those laws, is authorized to operate an operation pay annually an operation registration fee to TCEQ in an amount established by TCEQ rule.

Requires that TCEQ set the annual registration fee in an amount sufficient to maintain a registry of active aggregate production operations in the state, not to exceed \$1,000.

Requires that registration fees be deposited in the water resource management account and authorizes that the fees be used only to implement Chapter 28A.

Authorizes TCEQ to assess a penalty of not less than \$5,000 and not more than \$10,000 for each year in which an operation operates without being registered under Chapter 28A. Prohibits the total penalty from exceeding \$25,000 for an operation that is operated in three or more years without being registered.

Aerial Hunting of Feral Hogs and Coyotes—H.B. 716

by Representative Sid Miller et al.—Senate Sponsor: Senator Fraser et al.

There are many hunting techniques used for eliminating feral animals, including stand hunting over a baited area, night hunting with a spotlight, hunting with well-trained dogs, bow-hunting, muzzle-loading, handguns, and, currently, in some instances, helicopter hunting. Currently, Chapter 43 (Special Licenses and Permits), Parks and Wildlife Code, does not authorize a person to hunt any animal or bird from an aircraft for sport. This bill:

Authorizes a qualified landowner or landowner's agent, as determined by Texas Parks and Wildlife Commission (TPWC) rule, to contract to participate as a hunter or observer in using a helicopter to take depredating feral hogs or coyotes under the authority of a permit issued under Chapter 43, Subchapter G (Permits to Manage Wildlife and Exotic Animals from Aircraft), Parks and Wildlife Code.

Continuing Education Requirements for Licenses Issued by TCEQ—H.B. 965

by Representatives Callegari and Creighton—Senate Sponsor: Senator Hegar

Currently, Section 37.008(c), Water Code, authorizes TCEQ to recognize, prepare, or administer continuing education programs for license holders. This bill:

Authorizes TCEQ to recognize, prepare, or administer continuing education programs for license holders, including continuing education programs made available through the Internet.

Authorizes TCEQ by rule to provide a method for a person who holds certain licenses relating to water supplies and wastewater operations to certify at the time the license is renewed that the license holder has complied with TCEQ's continuing education requirements.

Capturing Reptiles and Amphibians by Nonlethal Means—H.B. 1788

by Representative Farias et al.—Senate Sponsor: Senator Uresti

Current law prohibits a person from hunting a wild animal or bird when the person is on a public road or right-of-way, except when legally trapping a raptor for educational or sporting purposes. This bill:

Authorizes a person to capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road or the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued by the Texas Parks and Wildlife Department (TPWD), which is one of the exceptions, if the person does not use a trap, to the law prohibiting a person from hunting a wild animal or bird when the person is on a public road or right-of-way.

Requires TPWC by rule to prescribe the form, design, and manner of issuance of such a stamp; provides that the stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face; and authorizes the commission by rule to prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

Provides that such a stamp is valid only during the yearly period for which the stamp is issued, with each yearly period beginning on September 1 and extending through August 31 or as appropriately set by the commission, without regard to the date on which the stamp is acquired.

Provides that the fee for a reptile and amphibian stamp is \$10, and authorizes TPWD to issue other stamp editions that are not valid for capturing by nonlethal means a species covered for a fee set by the commission.

Provides that the possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian without possessing a required hunting license or at a time or by means not otherwise authorized.

Requires the net revenue derived from the sale of reptile and amphibian stamps to be credited to the game, fish, and water safety account.

Provides certain exemptions to the hunting license or reptile and amphibian stamp to allow the capture by nonlethal means and subsequently release in another location of an indigenous reptile or amphibian, including if a person is performing activities related to the operation and maintenance of pipelines and related facilities or to oil or gas exploration or production; an employee of the state, a utility, or a power generation company, and is acting in the course and scope of the person's employment; or performing activities related to surface coal mining and reclamation operations.

Provides that a person who violates the reptile and amphibian stamp requirement commits a Class C Parks and Wildlife Code misdemeanor offense; and provides that a person within a described area who is engaged in capturing by nonlethal means a relevant species and fails or refuses on the demand of any game warden or other peace officer to show such a stamp is presumed to be in violation, with certain exceptions.

Requires a person to wear reflective clothing when engaging in such authorized capture, and prohibits a person from using an artificial light from a motor vehicle in locating, capturing, or attempting to capture in such a way a reptile or amphibian.

Requires the commission, not later than March 1, 2012, to adopt rules to implement the specified changes in law.

Fraud in Fishing Tournaments—H.B. 1806

by Representative Flynn—Senate Sponsor: Senator Hegar

Under current law, there are no provisions in the Parks and Wildlife Code that relate to fraud in saltwater fishing tournaments and there is no offense for altering a fish to influence the outcome of a fishing tournament. There is a need for regulations to prevent fraud in these tournaments in the same manner that freshwater tournaments are regulated. This bill:

Broadens the definition of fishing tournament by deleting the word "freshwater."

Provides that a person commits an offense if, with intent to affect the outcome of a fishing tournament, the person alters the length or weight of a fish for the purpose of representing that the fish as entered in the tournament was that length or weight when caught; or the person enters a fish in the tournament that was taken in violation of any provision of the Parks and Wildlife Code or a proclamation or regulation of TPWC adopted under this code.

Liability of Water Supply or Sewer Corporations in Fire Suppression—H.B. 1814

by Representative Lucio III—Senate Sponsor: Senator Lucio

Many water supply corporations allow or would like to allow fire departments to fill their tanks from flush valves in the system. Some water supply corporations provide a fire-flow level of service in areas that are urbanizing. Unlike volunteer fire departments and governmental entities, water supply corporations do not have immunity from suit or liability limits for providing this public service, unless they have in place a written contract with the fire department. This bill:

Authorizes a corporation to provide water supply to a governmental entity or volunteer fire department for use in fire suppression.

Provides that Section 341.0358 (Public Safety Standards), Health and Safety Code, also applies to the city of Burleson, Texas.

Loanstar Revolving Loan Program—H.B. 2077

by Representative Eddie Rodriguez—Senate Sponsor: Senator Deuell

Utility bills are one of the largest line items in a church or community-based organization's budget because the organizations often operate out of large, old, and inefficient buildings. Energy efficiency measures on these buildings could lower utility bills, leaving savings for other operations. Organizations often lack the capital required to make such energy efficient investments. This bill:

Establishes a pilot program that provides loans to community-based organizations and houses of worship to finance the implementation of energy efficiency measures and renewable energy technology in the buildings owned and operated by those organizations.

Requires the state energy conservation office (SECO), notwithstanding the requirement that SECO provide loans under the loanstar revolving loan program to finance energy and water efficiency measures for public facilities, to establish and administer a pilot program under the loanstar revolving loan program established under Section 2305.032 (Loanstar Revolving Loan Program), Government Code, to provide loans to houses of worship and community-based organizations to finance the implementation of energy efficiency measures and renewable energy technology in buildings owned or operated by those organizations.

Requires SECO to submit a report to the legislature that includes a brief description of the implementation and status of the pilot program, the energy efficiency measures or renewable energy technologies financed under the pilot program and the energy saved and clean energy produced as a result of implementing energy efficiency measures or renewable energy technologies financed under the program; recommendations for addressing any challenges or obstacles encountered in financing the implementation of energy efficiency measures and renewable energy technologies under the pilot program; and any additional information SECO determines necessary.

Provides that Section 2305.0322 (Pilot Revolving Loan Program for Energy Efficiency Measures and Renewable Energy Technology by Certain Nonprofit Organizations) expires December 31, 2015.

Regulation of Handfishing—H.B. 2189

by Representative Elkins—Senate Sponsor: Senator Deuell

Handfishing, also known as noodling, is the practice and sport of fishing for catfish using one's bare hands. The method involves locating an underwater catfish hole and using an angler's fingers and hand as bait. After catching a

catfish, an angler may then safely release the fish into the water. Interested parties have expressed a desire to legalize the practice in Texas. This bill:

Defines "handfishing."

Authorizes a person holding the required fishing license and freshwater fishing stamp issued to the person by TPWD to engage in handfishing in the public fresh water of Texas.

Authorizes TPWC to adopt rules related to handfishing.

Authority of a Gas Corporation to Use a Public Right-of-Way in Certain Areas—H.B. 2289

by Representative Crownover—Senate Sponsor: Senator Jackson

Prior legislation that was intended to encourage the construction of pipelines in public rights-of-way, rather than private property, gave certain gas corporations the authority to lay a pipeline over, along, under, and across a public road, a railroad, railroad right-of-way, an interurban railroad, a street railroad, a canal or stream, or a municipal street. This bill:

Provides that a gas corporation has the right to lay and maintain lines over, along, under, and across a public road, an interurban railroad, a street railroad, a canal or stream, or a municipal street or ally and over, under, and across a railroad or a railroad right-of-way only if the pipeline meets certain standards relating to safety and Texas Department of Transportation rules and the owner or operator of the pipeline ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline.

Exemption of Certain Incandescent Light Bulbs From Federal Regulation—H.B. 2510

by Representative Lavender et al.—Senate Sponsor: Senator Eltife

Approximately five years ago, the United States Congress passed energy independence and security legislation, which, among other provisions, banned the sale of most incandescent light bulbs by a certain date. This bill:

Provides that an incandescent light bulb manufactured in this state on or before January 1, 2012, that remains in this state is not subject to federal law or federal regulation.

Requires that an incandescent light bulb manufactured in the state must have the words "Made in Texas" clearly stamped on it.

Authorizes the Attorney General of Texas (attorney general), on written notification to the attorney general by a resident of this state regarding the resident's intent to manufacture an incandescent light bulb to which this chapter applies, to seek a declaratory judgment from a federal district court in this state that this chapter is consistent with the United States Constitution.

Liquefied Petroleum Gas Ordinances, Orders, or Rules—H.B. 2663

by Representative Chisum—Senate Sponsor: Senator Seliger

Although the Railroad Commission of Texas (railroad commission) has regulatory authority over the propane industry, local governments and cities across the state regularly adopt measures that differ from one another. Cities

often claim that the reason for the modifications to local rules and ordinances is because the new rules result in greater safety to consumers, but inconsistencies make it difficult for industry to comply. This bill:

Provides that the rules and standards promulgated and adopted by the railroad commission under Section 113.051 (Adoption of Rules and Standards), Natural Resources Code, preempt and supersede any ordinance, order or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry. Authorizes a political subdivision to petition the railroad commission's executive director for permission to promulgate more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety.

Plugging Inactive Oil and Gas Wells—H.B. 3134

by Representative Crownover—Senate Sponsor: Senator Duncan

During the 81st Legislature, Regular Session, 2009, the oil and gas industry came together to develop a comprehensive solution to the problem of inactive and abandoned wells. This bill:

Requires an authorized railroad commission employee or a person designated by the railroad commission for that purpose, before the railroad commission issues an order refusing to renew an operator's organization report, to determine whether the operator has failed to comply with certain requirements. Requires the authorized railroad commission employee or designated person, if the authorized railroad commission employee or designated person determines that the organization report does not qualify for renewal on that ground, to notify the operator, provide the operator with a written statement of reasons why the report does not qualify for renewal, and notify the operator that the operator has 90 days to comply with certain requirements relating to abandoned wells.

Requires the authorized railroad commission employee or designated person, after the expiration of a the 90-day period, to determine whether the organization report qualifies for renewal and notify the operator of the determination. Authorizes the authorized railroad commission employee or designated person, if he or she determines that the organization report does not qualify for the renewal because the operator has continued to fail to comply with certain requirements, to, not later than the 30th day after the date of the determination, request a hearing regarding the determination. Requires that the operator pay the costs associated with that hearing.

Requires the railroad commission by order, if the railroad commission determines following the hearing that the operator has failed to comply with the requirements outlined or the operator fails to file a timely request for a hearing, to refuse to renew the organization report. Provides that the organization report remains in effect until the railroad commission's order becomes final.

Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program—H.B. 3272

by Representatives Burnam and Chisum—Senate Sponsor: Senator Deuell

Texas has a financial assistance and incentive program for qualified owners of vehicles that fail the emissions test or whose vehicles are 10 years or older. This bill:

Provides that a vehicle is not eligible to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program (LIRAP) unless the vehicle meets certain requirements, including that the registration of the vehicle reflects that it has been registered in the county implementing LIRAP for at least 12 of the 15 months preceding the application for participation in LIRAP.

Requires TCEQ to adopt guidelines to assist a participating county in implementing LIRAP. Requires that the guidelines at a minimum recommend that vehicles meet certain requirements, in addition to a minimum and

maximum amount toward the purchase price of a replacement vehicle qualified for the accelerated retirement program, based on vehicle type and model year, with the maximum amount not to exceed a certain amount of dollars, including \$3,500 for a replacement vehicle of the current model or year or the previous three model years that is a hybrid, electric, or natural gas vehicle or has been certified to meet certain federal standards.

Requires that a replacement vehicle be a vehicle in a class or category of vehicles that has been certified to meet certain federal standards, have a gross vehicle weight rating of less than 10,000 pounds, have an odometer reading of not more than 70,000 miles and be a vehicle the total cost of which does not exceed a certain amount, including \$45,000 for a certain hybrid, electric, or natural gas vehicle.

Requires TCEQ to establish a partnership with representatives of the steel industry, automobile dismantlers, and the scrap metal recycling industry to ensure that vehicles retired are scrapped or recycled and proof of scrapping or recycling is provided to TCEQ.

Requires TCEQ to provide a procedure for certifying that emissions control equipment and vehicle engines have been scrapped or recycled.

Disclosure of the Composition of Hydraulic Fracturing Fluids—H.B. 3328

by Representative Keffer et al.—Senate Sponsors: Senators Fraser and Nelson

Hydraulic fracturing (fracking) is a process used by natural gas companies to extract natural gas from the earth. Several key technical, economic, and energy policy developments have spurred the increased use of fracking for gas extraction over a wider diversity of geographic regions and geologic formations. Along with the expansion of fracking, there have been increasing concerns about its potential impacts on drinking water resources, public health, and the environment. This bill:

Requires the railroad commission by rule to require an operator of a well on which a hydraulic fracturing treatment is performed to complete the form posted on the fracking chemical registry Internet website of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission with regard to the well; include in the form the total volume of water used in the fracking treatment and each chemical ingredient that is subject to federal statute as provided by a service company or chemical supplier or by the operator if the operator provides its own chemical ingredients; post the completed form on the website of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission or, if the website is discontinued or permanently inoperable, post the completed form on another publicly accessible Internet Website specified by the railroad commission; submit the completed form to the railroad commission with the well completion report for the well; and provide the railroad commission a list, to be made available on a publicly accessible website, of all other chemical ingredients not listed on the form that were intentionally included and used for the purpose of creating a hydraulic fracturing treatment for the well.

Requires that the railroad commission rule ensure that an operator, service company, or supplier is not responsible for disclosing ingredients that were not purposely added, occur incidentally or are otherwise unintentionally present, or in the case of the operator, are not disclosed to the operator by a service company or supplier.

Prohibits the railroad commission rule from requiring that the ingredients to be identified based on the additive in which they are found or that the concentration of such ingredients be provided.

Requires the railroad commission by rule to require a service company that performs a fracking treatment on a well or a supplier of an additive used in a fracking treatment on a well or a supplier of an additive used in a fracking treatment on a well to provide the operator of the well with certain information.

Requires the railroad commission by rule to prescribe a process by which an entity required to comply with certain subdivisions of this bill may withhold and declare certain information as a trade secret, including the identity and the amount of the chemical ingredient used in a fracking treatment.

Requires the railroad commission by rule to require a person who desires to challenge a claim of entitlement to trade secret protection to file the challenge not later than the second anniversary of the date the relevant well completion report is filed with the railroad commission.

Requires the railroad commission by rule to limit the persons who are authorized to challenge a claim of entitlement to trade secret protection to a landowner on whose property adjacent to certain other property or a department or agency of which this state with jurisdiction over a matter to which the claimed trade secret is relevant.

Requires the railroad commission by rule to require, in the event of a trade secret challenge, that the railroad commission promptly notify the service company performing the hydraulic fracturing treatment on the relevant well, the supplier of the additive or chemical ingredient for which the trade secret claim is made, or any other owner of the trade secret being challenged and provide the owner an opportunity to substantiate its trade secret claim.

Requires the railroad commission by rule to prescribe a process, consistent with federal law, for an entity to provide information, including information that is a trade secret as defined by federal law, to a health professional or emergency responder who needs the information.

Provides that the protection and challenge of trade secrets is governed by Chapter 552 (Public Information), Government Code.

Requirements for Grant Programs Funded Through TERP—H.B. 3399

by Representative Legler et al.—Senate Sponsor: Senator Williams

The Texas Emissions Reduction Program (TERP) provides financial incentives to eligible individuals, businesses or local governments to reduce emissions from polluting vehicles and equipment. This bill:

Requires TCEQ, if TCEQ determines that a heavy-duty motor vehicle or engine must be decommissioned, to require the decommissioning to be carried out by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by TCEQ that permanently removes the vehicle from operation in the state. Requires TCEQ to provide a means for an applicant to propose an alternative method for complying with the requirements outlined. Requires TCEQ to enforce the requirements outlined.

Requires TCEQ to consider an application for a vehicle replacement or a fleet expansion for a project with an activity life of five years or more, or 400,000 miles, whichever is earlier.

Requires TCEQ to provide a form that minimizes, to the maximum extent possible, the amount of paperwork required for applying for a grant.

Provides that an entity that places 20 or more qualifying vehicles in service for use entirely in this state during a year is eligible to participate in TERP.

Provides that, notwithstanding an entity with 20 or more qualifying vehicles that are used entirely in the state being eligible for TERP, an entity that submits a grant application for 20 or more qualifying vehicles is eligible to participate in TERP even if TCEQ denies approval for one or more of the vehicles during the application process.

Requires TCEQ to minimize, to the maximum extent possible, the amount of paperwork required for an application.

Authorizes an applicant to be required to submit a photograph or other documentation of a vehicle identification number, registration information, inspection information, tire condition, or engine block identification only if the photograph or documentation is requested by TCEQ after TCEQ has decided to award a grant to the applicant.

Sale, Recovery, and Recycling of Certain Television Equipment—S.B. 329

by Senator Watson et al.—House Sponsors: Representatives Chisum and Naishtat

Almost 70 percent of the overall toxic waste in landfills is from discarded electronics. This bill:

Establishes a comprehensive, convenient, and environmentally sound program for the collection and recycling of television equipment and provides that the program is based on individual television manufacturer responsibility and shared responsibility among consumers, retailers, and the government of this state.

Authorizes a television manufacturer to sell or offer for sale in this state only covered television equipment that is labeled with the television manufacturer's brand.

Requires that certain television manufacturers register with TCEQ and pay a registration fee of \$2,500.

Requires that the fees collected be deposited to the credit of the television recycling account.

Requires each television manufacturer of covered television equipment sold in the state, not later than the first January 31 that occurs after the date the television manufacturer first registers with TCEQ, to individually or as a member of a group of television manufacturers, submit to TCEQ a recovery plan to collect, reuse, and recycle covered television equipment.

Authorizes a group of television manufacturers to establish a recycling leadership program (program) to provide collection, transportation, and recycling infrastructure for covered television equipment.

Requires that a program provide at least 200 individual collection sites or programs where a consumer is authorized to return covered television equipment for reuse or recycling.

Prohibits a television manufacturer from charging a separate fee at the time of recycling unless at the time of recycling a financial incentive of equal or greater value to the fee charged is provided by the television manufacturer.

Sets forth the collection methods that are authorized to be used by a program for recycling of covered television equipment.

Provides that a television manufacturer of covered television equipment sold in this state that is participating in a program for covered television equipment as of January 1 of any year is not subject during that year to registration and renewal fees and reporting requirements.

Requires that not later than January 31 of each year, each program provide to TCEQ a list of the television manufacturers participating in the program for that year.

Requires a television manufacturer of covered television equipment that is sold in this state that participates in a program to individually or through the program establish and implement a public education program regarding collection, reuse, and recycling opportunities that exist in this state for covered television equipment. Sets forth the requirements of the public education program.

Requires a television manufacturer of covered television equipment sold in this state that is participating in a recycling leadership program, not later than January 31 of every other year beginning with the television manufacturer's second year of registration, individually or as a member of the recycling leadership program, to submit to TCEQ a collection report regarding the television manufacturer's collection, reuse, and recycling of covered television equipment.

Sets forth the requirements of the collection report.

Authorizes retailers to order and sell certain products from a television manufacturer that is present on a publicly accessible list of television manufacturers who meet certain requirements that is created by TCEQ. Requires a retailer to consult that list before ordering covered television equipment in this state.

Requires a person who is engaged in the business of recycling covered television equipment in the state, not including television manufacturers, to meet certain requirements relating to standards adopted by this bill, as well as maintain a written log recording the weight of all covered television equipment received and the disposition of the equipment and annually report to TCEQ the total weight of covered television equipment received and recycled in the preceding months.

Requires TCEQ to educate consumers regarding the collection and recycling of covered television equipment.

Authorizes TCEQ to conduct audits and inspections to ensure compliance with the provisions of this bill.

Requires TCEQ to compile information from television manufacturers and issue an electronic report to the committee in each house of the legislature having primary jurisdiction over environmental matters not later than March 1 of each even-numbered year.

Provides that a consumer is responsible for any information in any form left on the consumer's covered television equipment that is collected or recycled.

Requires that covered television equipment collected be disposed of or recycled in a manner that complies with federal, state, and local law.

Authorizes TCEQ, if federal law establishes a national program for the collection and recycling of covered television equipment and TCEQ determines that the federal law substantially meets the purposes of this bill, to adopt an agency statement that interprets the federal law as preemptive.

Creation of Programs to Support the Use of Alternative Fuels—S.B. 385

by Senators Williams and Fraser—House Sponsor: Representative Otto et al.

The 81st Legislature, Regular Session, 2009, provided incentives to reduce exhaust emissions from vehicle fleets in nonattainment areas by creating the Clean Fleet Program. The Clean Fleet Program reimburses a portion of the incremental costs of an alternative fuel vehicle. The program is funded by the Texas Emissions Reduction Program (TERP) and does not exceed five percent of the fund. This bill:

Authorizes money in the TERP fund (fund) to be used only to implement and administer programs established under the Texas emissions reduction plan and requires that the money be allocated in certain percentages, and specifies that, for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which certain amounts are used for certain programs:

- two percent is authorized to be used for the Texas alternative fueling facilities program,

- not less than 16 percent is required to be used for the natural gas vehicle grant program,
- and not more than four percent is authorized to be used to provide grants for natural gas fueling stations.

Authorizes TCEQ to allocate unexpended money designated for the Texas alternative fueling facilities program to other programs after TCEQ allocates money to recipients under the alternative fueling facilities program.

Requires TCEQ to establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel in nonattainment areas. Requires TCEQ, under the alternative fueling facilities program, to provide a grant for each eligible facility to offset the cost of those facilities.

Requires TCEQ to establish and administer the Texas natural gas vehicle grant program to encourage an entity that has a heavy-duty or medium-duty motor vehicle to repower the vehicle with a natural gas engine or replace the vehicle with a natural gas vehicle. Requires TCEQ, under the program, to provide grants for eligible heavy-duty motor vehicles and medium-duty motor vehicles to offset the incremental cost for the entity of repowering or replacing the heavy-duty or medium-duty motor vehicle.

Sets forth the qualifications for a vehicle that may be considered for a natural gas vehicle grant program.

Provides that a heavy-duty or medium-duty motor vehicle is not a qualifying vehicle if the vehicle or natural gas engine powering it has been awarded a grant for a previous reporting period or has received a similar grant or tax credit in another jurisdiction if that grant or tax credit program is relied on for credit in the state implementation plan.

Authorizes only an entity operating in this state that operates a heavy-duty or medium-duty motor vehicle to apply for and receive a grant.

Requires that a heavy-duty or medium-duty motor vehicle replaced under the natural gas vehicle grant program be rendered permanently inoperable as outlined in the bill.

Requires TCEQ to establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced by using the emission certification for the engine or vehicle being replaced.

Authorizes mileage or fuel use requirements established by TCEQ to differ by vehicle weight categories and type of use.

Requires TCEQ to develop a grant schedule and sets forth the information to be included in the schedule.

Requires that not less than 60 percent of the total amount of grants awarded for the purchase of repowering of motor vehicles be awarded to motor vehicles with a gross vehicle weight rating of at least 33,001 pounds. Provides that the minimum grant requirement does not apply if TCEQ does not receive enough grant applications to satisfy the requirement for motor vehicles that are eligible to receive a grant.

Prohibits a person from receiving a grant that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded. Requires a person to return to TCEQ the amount of a grant awarded that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded.

Requires TCEQ to reduce the amount of a grant awarded as necessary to keep the combined incentive total at or below the incremental cost of the vehicle for which the grant is awarded if the grant recipient is eligible to receive an automatic incentive at or before the time a grant is awarded.

Requires TCEQ to adopt certain grant procedures.

Requires TCEQ to maintain and make available to the public online a list of all qualified dealers and establish requirements for participation in the program by sellers of on-road heavy-duty or medium-duty natural gas vehicles and heavy-duty or medium-duty natural gas engines.

Requires TCEQ, to ensure that natural gas vehicles purchased, leased, or otherwise commercially financed or repowered under the program have access to fuel and to build the foundation for a self-sustaining market for natural gas vehicles in Texas, to award grants to support the development of a network of natural gas vehicle fueling stations along the interstate highways connecting Houston, San Antonio, Dallas, and Fort Worth. Requires TCEQ, in awarding the grants, to provide for strategically placed natural gas vehicle fueling stations in and between the Houston, San Antonio, and Dallas-Fort Worth areas to enable a natural gas vehicle to travel along that triangular area relying solely on natural gas fuel; grants to be dispersed through a competitive bidding process to offset a portion of the cost of installation of the natural gas dispensing equipment; contracts that require the recipient stations to meet operational, maintenance, and reporting requirements as specified by TCEQ; and a listing, to be maintained by TCEQ and made available to the public online, of all natural gas vehicle fueling stations that have received grant funding, including location and hours of operation.

Prohibits TCEQ from awarding more than three station grants to any entity or one grant for each station.

Sets forth the amounts which each grant is prohibited from exceeding.

Requires that stations funded by grants be publicly accessible and located not more than three miles from an interstate highway system. Requires TCEQ to give preference to stations providing both liquefied natural gas and compressed natural gas at a single location and stations located not more than one mile from an interstate highway system.

Authorizes TCEQ, to meet its goals, to solicit grant applications for a new fueling station in a specific area or location.

Requires TCEQ, in consultation with the natural gas industry, to determine the most efficient use of funding for the station grants to maximize the availability of natural gas fueling stations.

Authorizes TCEQ to contract with one or more entities for administration of the program.

Regulation of Metal Recycling Entities—S.B. 694

by Senator West—House Sponsor: Representative Wayne Smith et al.

A rise in theft of metals such as copper, bronze, brass, and aluminum, recognized under the term "regulated metals" is occurring in Texas. This bill:

Authorizes a county, municipality, or other political subdivision to require a record of purchase to contain a clear and legible thumbprint of a seller of regulated metal.

Requires a county, municipality, or other political subdivision that requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material to include information in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that maintains the confidentiality of information received and allows the county, municipality, or political subdivision to terminate a contract if the confidentiality is breached.

Requires a county, municipality, or other political subdivision that requires a metal recycling entity to report to the county, municipality, or other political subdivision information relating to the sale of regulated material to include in any contract entered into relating to the reporting of the information a provision that requires certain persons to maintain the confidentiality of all information received and allows the county, municipality, or political subdivision to terminate the contract of any person who violates the confidentiality provision and investigate a complaint alleging that the confidentiality of information related to a sale of regulated material has occurred.

Provides that a person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or political subdivision. Provides that an offense is a Class B misdemeanor unless it is shown on the trial that the person has been previously convicted for the offense, in which event the offense is a Class A misdemeanor.

Sets forth certain exemptions to the application of an offense if a person owns or operates a metal recycling entity and does not hold a license or permit.

Requires a county, municipality, or political subdivision, notwithstanding any other law, to provide a minimum 30-day notice followed by a public hearing prior to enacting a prohibition on the sale or use of a recyclable product.

Provides that a person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision is subject to a civil penalty of not more than \$1,000 for each violation.

Provides that information provided under Section 1956.015 (Statewide Electronic Reporting System), Occupations Code, is not subject to disclosure under Chapter 552 (Public Information), Government Code. Authorizes the Texas Department of Public Safety of the State of Texas (DPS) to use information provided under Section 1956.015, Occupations Code, for law enforcement purposes. Requires DPS to maintain the confidentiality of all information provided, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased.

Authorizes DPS to enter into contracts relating to the operation of the statewide electronic reporting system. Sets forth the requirements that the contract must meet.

Requires DPS to investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

Requires DPS to make available on its Internet website a publicly accessible list of all registered metal recycling entities. Requires that the list contain each registered metal recycling entity's name, the entity's physical address, and the name and contact information for a representative of the entity.

Requires DPS to establish an advisory committee to advise DPS on matters relating to regulation of metal recycling entities.

Sets forth the composition of the advisory committee.

Requires the advisory committee to meet annually and at the call of the presiding officer or the director.

Provides that an advisory committee member is not entitled to compensation or reimbursement of expenses.

Requires a person attempting to sell regulated material to a metal recycling entity, except as provided by Section 1956.032(f) (relating to a metal recycling entity not being required to make a copy of identification or collecting certain information if the seller has provided certain information), Occupations Code, to provide certain identifying

information, including the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display certain information to the metal recycling entity; and if the regulated material includes insulated communications wire that has been burned wholly or partly to remove the insulation, display to the entity documentation acceptable under certain rules that states that the material was salvaged from a fire.

Requires the Public Safety Commission (commission) to adopt rules establishing the type of documentation that a seller of insulated communications wire must provide to a metal recycling entity to establish that the wire was salvaged from a fire.

Requires an entity, in addition to the requirements outlined in this bill, for each purchase by a metal recycling entity of an item of regulated metal, to obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

Requires that the records be kept in an easily retrievable format and available for inspection as provided by Section 1956.035 (Inspection of Records), Occupations Code, not later than 72 hours after that time of purchase.

Requires a metal recycling entity, on request, to permit a peace officer of the state, a representative of DPS, or a representative of a county, municipality, or other political subdivision that issues a license or permit to inspect, during the entity's usual business hours certain items, including a digital photograph or video recording.

Requires the person seeking to inspect a record or material to take certain steps, including, if the person is a representative of DPS or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status.

Requires the entity, except as otherwise provided in this bill and not later than the close of business on a metal recycling entity's second working day after the date of the purchase or other acquisition of material for which a record is required, to send an electronic transaction report to DPS via DPS' Internet website. Requires the report to contain certain information.

Authorizes a metal recycling entity to submit the transaction report by facsimile if the entity submits certain information to DPS annually and DPS approves the entity's application.

Authorizes DPS, after notice and an opportunity for a hearing, to prohibit a metal recycling entity from paying cash for the purchase of a regulated material for a period determined by DPS if DPS finds that the entity has failed to comply.

Prohibits a metal recycling entity from disposing of, processing, selling, or removing from the premises an item of regulated metal unless the entity acquired the item more than eight days, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is a cemetery vase, receptacle, or memorial made from a regulated material other than aluminum or 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is not a cemetery vase or other receptacle made from a regulated material other than aluminum.

Prohibits a person, with the intent to deceive, from taking certain actions, including displaying another individual's personal identification document in connection with the sale of a regulated material.

Prohibits a metal recycling entity from paying for a purchase of regulated material in cash if the entity does not hold a certificate of registration and, if applicable, a license or permit required by a county, municipality, or other political subdivision or the entity has been prohibited by DPS from paying cash.

Prohibits a county, municipality, or other political subdivision, notwithstanding Section 1956.003(a) (relating to authorizing a county, municipality, or political subdivision to adopt a rule, charter or ordinance or issue an order or impose standards more stringent than but not in conflict with the rules adopted under Chapter 1956 (Metal Recycling Entities), Occupations Code), Occupations Code, from adopting or enforcing a rule, charter, or ordinance or issuing an order or imposing standards that limit the use of cash by a metal recycling entity in a manner more restrictive than provided in the preceding paragraph.

Provides that the preceding paragraph does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.

Requires DPS, not later than January 1, 2012, to issue a notice to each known owner or operator of a metal recycling entity in this state informing the owner or operator of the requirement to obtain a certificate of registration and, if applicable, to obtain a license or permit required by a county, municipality, or other political subdivision. Sets forth the requirements of the notice.

Provides that the provision in the preceding paragraph expires March 1, 2012.

Authorizes DPS or a county, municipality, or other political subdivision to bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required.

Requires that an action under the preceding paragraph be brought in the name of the state. Requires the court, if the judgment is in favor of the state, to enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court and order that the place of business of the owner or operator be closed for the same period.

Provides that a person commits an offense if the person knowingly violates Section 1956.021 (Registration Required), 1956.023(d) (relating to an expired certificate of registration), 1956.036(a) (relating to requiring a metal recycling facility to send by facsimile or electronic mail or to file with DPS a report containing certain the record of purchase of certain metal materials), or 1956.039 (Hours for Purchasing Material), Occupations Code.

Provides that an offense under the preceding subsection is a misdemeanor punishable by a fine not to exceed \$10,000 unless it is shown on trial that the person has previously been convicted of the offense, in which even the offense is a state jail felony.

Provides that it is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) Occupations Code, that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

Authorizes a municipality or county to retain 10 percent of the money collected from a fine for a conviction of an offense under Section 1956.040(a-1) (relating to a person committing an offense if the person knowingly violates certain sections of the Occupations Code), Occupations Code, as a service fee for that collection and the clerk of the court is required to remit the remainder of the fine collected for conviction of an offense under Section 1956.040(a-1), Occupations Code, to the Comptroller of Public Accounts (comptroller). Requires the comptroller to deposit proceeds to the credit of an account in the general revenue fund, and authorizes those funds to be appropriated only to DPS and used to finance DPS's administration of certain laws and fund grants distributed under the prevention of scrap metal theft grant program.

Provides that a person commits an offense if the person knowingly buys certain items, including insulated communications wire that has been burned wholly or partly to remove the insulation, unless the wire is accompanied by documentation acceptable under rules adopted that states that the material was salvaged from a fire.

Prohibits a person from selling or otherwise transferring to a metal recycling entity certain items, including a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the keg brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

Authorizes the commission, from fines collected and distributed by DPS, to by rule establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

Requires a recipient, to be eligible for a grant, to be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

Sets forth the requirements of the rules adopted under Section 411.422 (Grants to Fund Scrap Metal Theft Prevention), Government Code.

Provides that except as provided by Section 31.03(f) (relating to an offense described for purposes of punishment is increased to the next higher category of offense if certain information is shown on the trial of the offense), an offense under Section 31.03 (Theft), Penal Code, is a certain offense, including a state jail felony if the value of the property is a certain amount, including if the value of the property is less than \$20,000 and the property stolen is aluminum, bronze, copper, or brass.

Boundaries of the Ingleside Cove Wildlife Sanctuary—S.B. 810

by Senator Hinojosa—House Sponsor: Representative Hunter

The Parks and Wildlife Code currently articulates the boundaries of the Ingleside Cove Wildlife Sanctuary using dated methods. To more accurately define the sanctuary's boundaries, global positioning system coordinates are used to amend the boundaries set forth in the Parks and Wildlife Code. This bill:

Defines the boundaries of the Ingleside Cove Wildlife Sanctuary.

Motor Fuel Quality and Testing—S.B. 893

by Senator Whitmire—House Sponsor: Representative Hardcastle

In 2009, the Texas Legislature strengthened consumer protection in Texas by authorizing TDA to regulate fuel quality. TDA developed a statewide program to test fuel for water and other contaminants as a result. Prior to 2009, no state agency in Texas was responsible for protecting drivers from receiving tainted fuel. Over the last two years, TDA has identified several areas in statute that are in need of revision. This bill:

Provides that the provisions of law subject to Section 12 (Powers and Duties), Agriculture Code, include, among certain provisions, Chapters 17 (Sale and Regulation of Certain Fuel Mixtures) and that the applicable penalty is not more than \$5,000.

Deletes existing text prohibiting a distributor, supplier, wholesaler, or jobber of motor fuel, except as provided by Section 17.052(b) (relating to a delivery made into the fuel supply tanks of a motor vehicle), Agriculture Code, from delivering to an outlet in this state a motor fuel mixture that contains ethanol or methanol exceeding one percent by volume of the mixture unless, at the time of the delivery of the mixture, the person also delivers to the outlet receiving

the delivery signs required by Section 17.051 (Notice of Sale of Alcohol and Fuel Mixture), Agriculture Code, in a number sufficient for the dealer receiving the mixture to comply with that section, and evidences delivery of the signs required under Section 17.052(a)(1) (relating to the percentage of ethanol or methanol contained in the mixture), Agriculture Code.

Requires each distributor, supplier, wholesaler, and jobber of motor fuel to keep a copy of each document required to be delivered to the dealer until the fourth anniversary of the delivery date.

Requires the dealer, distributor, supplier, wholesaler, or jobber, on written notice presented by the commissioner of agriculture (commissioner) or an authorized representative of the commissioner to any employee at a dealer's station or retail outlet or mailed to the principal place of business of a dealer, distributor, supplier, wholesaler, or jobber to provide the commissioner or authorized representative of the commissioner with the documents within the period specified in the notice.

Authorizes the commissioner by rule to require each dealer, distributor, supplier, wholesaler, and jobber to maintain and make available to TDA certain invoices, receipts, and transmittal records.

Authorizes the commissioner or an authorized representative of the commissioner to inspect a document required to be kept. Requires the dealer, on written notice presented by the commissioner or an authorized representative to any employee at a dealer's station or retail outlet or mailed to the dealer's principal place of business, to provide the commissioner or authorized representative with the documents within the period specified in the notice.

Authorizes the commissioner by rule to require reach dealer to maintain and make available to TDA certain invoices, receipts, transmittal documents, and records.

Authorizes TDA to adopt rules as necessary to bring about uniformity between the standards established under Chapter 17 (Sale and Regulation of Certain Fuel Mixtures), Subchapter B-1 (Motor Fuel Quality and Testing), Agriculture Code, and certain nationally recognized standards.

Authorizes TDA, if TDA has reason to believe that motor fuel is in violation of Chapter 17, Agriculture Code, or a rule adopted under Chapter 17, Agriculture Code, or that the motor fuel is being sold or offered for sale in a manner that violates Chapter 17, Agriculture Code, to issue and enforce a written order to stop the sale, place on a device used to dispense the motor fuel a tag or other mark with the words "Out of Order," or stop the sale of the motor fuel and mark a device used to dispense the motor fuel as out of order.

Requires TDA to present an order issued under Section 17.073 (Stop-Sale Order; Shutdown of Dispensing Devices), Agriculture Code, to the dealer, distributor, jobber, supplier, or wholesaler who is in control of the motor fuel at the time the motor fuel or the dealer, distributor, jobber, supplier, or wholesaler of the motor fuel is inspected by the commissioner. Prohibits the person who receives the order from selling motor fuel subject to a stop-sale order or from using a device on which TDA has placed a tag or other mark until TDA determines that the motor fuel or device is in compliance with Chapter 17, Agriculture Code, and TDA rules.

Applicability of Certain Provisions Concerning Bond Approval by TCEQ—S.B. 914

by Senator Wentworth—House Sponsor: Representative Doug Miller

Section 49.181 (Authority of Commission Over Issuance of District Bonds), Water Code, requires that certain districts apply to TCEQ for engineering review and bond approval prior to issuance of bonds for financing certain projects. The purpose of the statute is to protect the public interest by preventing the financing of projects that are not designed properly by developers with limited experience in project engineering and financing. The statute also exempts most regional water and wastewater service providers, such as river authorities, from the requirement found

in Section 49.181, Water Code. Such applicants are typically more sophisticated and experienced in project development and financing. This bill:

Provides that Section 49.181, Water Code, does not apply to certain districts, including if the district is a conservation and reclamation district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation), Article XVI, Texas Constitution, that includes territory in at least three counties and has rights, powers, privileges, and functions applicable to a river authority under Chapter 30 (Regional Waste Disposal), Water Code.

Issuance of Permits for Certain Facilities Regulated by TCEQ—S.B. 1134

by Senator Hegar—House Sponsor: Representative Craddick

TCEQ recently adopted a new permit by rule and standard permit for facilities of oil and gas production in the Barnett Shale. TCEQ is in the process of developing a new permit by rule or standard permit for facilities of oil and gas production in other parts of the state. This bill:

Prohibits TCEQ from adopting a new permit by rule or a new standard permit or amending an existing permit by rule or an existing standard permit relating to a facility unless TCEQ conducts a regulatory analysis, determines, based on the evaluation of credible air quality monitoring data, that the emissions limits or other emissions-related requirements of the permit are necessary to ensure that the intent of Chapter 382 (Clean Air Act), Health and Safety Code, is not contravened, including the protection of the public's health and physical property, establishes any required emissions limits or other emissions-related requirements based on certain information, and considers whether the requirements of the permits should be imposed only on facilities that are located on a particular geographic region of the state.

Provides that the air quality monitoring data and the evaluation of that data is required to be relevant and technically and scientifically credible, as determined by TCEQ and authorized to be generated by an ambient air quality monitoring program conducted by or on behalf of TCEQ in any part of the state or by another governmental entity of this state, a local or federal governmental entity, or a private organization.

Authorizes TCEQ to adopt one or more permits by rule or one or more standards permits and to amend one or more existing permits by rule or standard permits to authorize planned maintenance, start-up, or shutdown activities for certain facilities. Requires that the adoption or amendment of a permit comply with Section 382.051961(b) (relating to prohibiting TCEQ from adopting a permit by rule, new standard permit or amending an existing permit by rule or an existing standard permit), Health and Safety Code.

Provides that an authorized emission or opacity event from a planned maintenance, start-up, or shutdown activity is subject to an affirmative defense as established by TCEQ rules as those rules exist on the effective date of certain provisions of this bill if the emission or opacity event occurs at a certain facility; an application or registration to authorize the planned maintenance, start-up, or shutdown activities of the facility is submitted to TCEQ on or before the earlier of certain dates; and the affirmative defense criteria in the rules are met.

Provides that the affirmative defense is not available for a facility on or after the date that an application or registration to authorize the date that an application or registration to authorize the planned maintenance, start-up, or shutdown activities of the facility is approved, denied, or voided.

Authorizes a permit by rule or standard permit that has been adopted by TCEQ and is in effect on a certain effective date to be amended to require the permit holder to provide to TCEQ information about a facility authorized by the permit, including the location of the facility and any facility handling sour gas to a minimum distance from a

recreational area, to a residence or another structure not occupied or used solely by the operator of the facility or by the owner of the property upon which the facility is located.

Prohibits TCEQ, notwithstanding any other provisions of Chapter 382, Health and Safety Code, from aggregating a facility that belongs to a Standard Industrial Classification Code with another facility that belongs to a Standard Industrial Classification Code for purposes of consideration as an oil and gas site, a stationary source, or another single source in a permit by rule or a standard permit unless the facilities being aggregated are under the control of the same person or are under the control of persons under common control, belong to the same first two-digit major grouping of Standard Industrial Classification Codes, are operationally dependant, and are located more than one-quarter mile from a condensate tank, oil tank, produced water storage or certain combustion facility.

Payment by a Water Control and Improvement District for Certain Damages—S.B. 1140

by Senator Watson—House Sponsor: Representative Hartnett

In the normal course of operation of a sanitary sewer system, the system may back up and create property damage for property owners who receive sewer service from the system. Some water control and improvement districts (WCIDs) across Texas operate sanitary sewer systems to provide sewer services for the residents and businesses within the service area of the WCIDs. The provision of sewer services is a governmental function, which gives a WCID immunity from suit or liability if the sewer system operated by the WCID experiences a backup. In 2009, the legislature enacted H.B. 1174 to enable municipalities or river authorities to pay for the actual property damages caused by the backup of sewer systems operated by the municipalities or river authorities. This bill:

Authorizes a WCID to pay actual property damages caused by the backup of the WCID's sanitary sewer system regardless of whether the WCID would be liable for the damages.

Provides that Section 51.340 (Certain Damages Caused by Sewage Backup), Water Code, does not waive governmental immunity from suit or liability.

Disannexation of Land in Caldwell County—S.B. 1225

by Senator Hegar—House Sponsor: Representative Isaac

In August 2010, the Texas Attorney General issued Opinion No. GA-0792, specifically dealing with the status of land in one groundwater conservation district that is later included in special legislation creating a different groundwater conservation district. The attorney general opined that two different political subdivisions may not exercise jurisdiction over the same territory at the same time and for the same purposes. Currently, 14,202 acres of land in Caldwell County is included in both the Plum Creek Conservation District (PCCD) and the Gonzales County Underground Water Conservation District (GCUWCD). This bill:

Requires the board of GCUWCD and the board of PCCD, not later than the 30th day after the effective date of this bill, to jointly prepare a form that requests the disannexation of land located in Caldwell County from the territory of GCUWCD or PCCD.

Relating to the Location and Operation of Concrete Crushing Facilities—S.B. 1250

by Senator Lucio—House Sponsor: Representative Lozano

La Feria, Texas, has a population of approximately 6,100 and has a growing recycling industry. La Feria is the largest recycler of waste in the Rio Grande Valley (valley). La Feria demands that its corporate citizens exceed all environmental controls. Innovative Block of South Texas (Innovative Block) is enclosed by walls that are 14 feet thick

and insulate dust particles and sound. Under current law, concrete crushing facilities are prohibited from operating within 440 yards of a building that is used as a single family or multifamily residence, a school, or a place of worship. That law was adopted in 2001 as part of the sunset regulation for the then-Texas Natural Resource Conservation Commission. At the time, the statute was added to address large open pits at substantial crushing operations. Innovative Block is not an open pit mine and that crushing equipment is a small part of a manufacturing process for brick production. By TCEQ definition, the equipment at Innovative Block falls under the applicability of current statute. This bill:

Provides that Section 382.065(a) (relating to the distance of a concrete crushing facility from certain public buildings and the measurement of distance taken from the facility to certain public buildings), Health and Safety Code, does not apply to certain concrete crushing facilities, including one that uses a concrete crusher in the manufacture of products that contain recycled materials and that is located in an enclosed building and is located within 25 miles of an international border and in a municipality with a population of not less than 6,100, but not more than 20,000.

Demolition Waste From Abandoned or Nuisance Buildings in Certain Areas—S.B. 1258

by Senator Duncan—House Sponsor: Representative Hardcastle

In rural Texas, communities have begun to face challenges with a growing number of abandoned buildings within the city limits. These buildings pose many health and safety risks to the community, such as the presence of rodents, potential fire hazards, and drug-related activities taking place in the buildings. Many of the communities are attempting to be proactive by demolishing the buildings, but the cost of disposal is a problem because demolition is costly and in many cases, the debris must be transferred to a municipal solid waste facility, which can be 80 to 100 miles away. This bill:

Provides that this bill applies only to a building that has been abandoned or found to be a nuisance, acquired by the county or municipality by certain means, and previously owned by a person not financially capable of paying the costs of the disposal of demolition waste at a permitted solid waste disposal facility, including transportation of the waste to the facility.

Authorizes TCEQ to issue a permit by rule to authorize the governing body of a county or municipality with a population of 10,000 or less to dispose of demolition waste from a building if the disposal occurs on land that the county or municipality owns or controls and would qualify for an arid exemption under TCEQ rules.

Requires TCEQ to adopt rules to control the collection, handling, storage, processing, and disposal of demolition waste to protect public and private property, rights-of-way, groundwater, and any other right that requires protection.

Mining and Reclamation of Land Affected by Surface Coal Mining Operations—S.B. 1295

by Senator Hegar—House Sponsor: Representative Beck

Currently, Texas law has no specific reclamation success standards for previously mined lands that are impacted by permitted coal operations and do not allow issuance of a permit for coal operations on previously mined land if the applicant has any outstanding violations. This bill:

Provides that "previously mined land" means land that was affected by surface coal mining operations occurring before August 3, 1977, and has not been reclaimed.

Requires that performance standards for surface coal mining and reclamation operations require an operator to meet certain standards, including assuming responsibility for successful revegetation as required by Section 134.092(a)(19) (relating to establishing diverse, effective and permanent vegetative cover), Natural Resources Code,

for five years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with that subdivision, if the land is not previously mined land or two years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance, if the land is previously mined land.

Provides that notwithstanding the previous paragraph, in areas or regions of the state where the annual average precipitation is 26 inches or less, an operator's assumption of responsibility and liability extends for 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is not previously mined land or five years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is previously mined land.

Audit Report Exemption for Certain General and Special Law Districts—S.B. 1361

by Senator Estes—House Sponsor: Representative Hardcastle

Under current law, water control and improvement districts and other similar districts are required to have all fiscal accounts and records audited by a certified public accountant annually. Smaller districts that have no outstanding bonds or other long-term liabilities, gross receipts less than \$100,000, and cash and temporary investments less than \$100,000 are exempt from the audit requirements. Smaller districts typically have low overhead and reserve funds in a low interest savings account for future capital repairs of water systems. Those funds gain a small amount of interest and since the district is not engaged in long-term projects, the earned interest is used to pay for the required audits. In the case of these small districts, the audits can consume up to one-half of the interest earned, which is the only new revenue coming into the district. This bill:

Authorizes a district to elect to file annual financial reports with the executive director of the Texas Commission on Environmental Quality in lieu of the district's compliance with Section 49.191 (Duty to Audit), Water Code, provided the district meets certain requirements, including the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$250,000 during the fiscal period and the district's cash and temporary investments were not in excess of \$250,000 at any time during the fiscal period.

Texas Low-Level Radioactive Waste Disposal Compact—S.B. 1504

by Senators Seliger and Hinojosa—House Sponsor: Representative Lewis

In 1980, the United States Congress passed the low-level radioactive waste policy act, which encourages states to join interstate agreements or compacts. The Texas Low-Level Radioactive Waste Disposal Compact (compact) site outside of Andrews, Texas, is operated by waste control specialists licensed by TCEQ and overseen by the Texas Low-Level Radioactive Waste Disposal Compact Commission (commission). Texas and Vermont are members of the compact, which is set to open by the next biennium. The enabling legislation for the site was passed in 2003. This bill:

Authorizes the compact waste disposal facility license holder to accept for disposal at the compact waste disposal facility approved nonparty compact waste that is classified as Class A, Class B, or Class C low-level radioactive waste in accordance with the compact waste disposal facility license to the extent the acceptance does not diminish the disposal volume or curie capacity available to party states. Prohibits the license holder from accepting any nonparty compact waste for disposal at the facility until the license has been modified by TCEQ to specifically authorize the disposal of nonparty compact waste.

Prohibits the compact waste disposal facility license holder from accepting waste of international origin for disposal at the facility.

Prohibits the compact waste disposal facility license holder from accepting more than 50,000 total cubic feet of nonparty compact waste annually. Prohibits the compact waste disposal facility license holder from accepting more than 120,000 curies of nonparty compact waste annually, except that in the first year the license holder is authorized to accept 220,000 curies. Authorizes the legislature by general law to establish revised limits after considering the results of the study under Section 401.208 (Study of Capacity), Health and Safety Code.

Requires TCEQ to assess a surcharge for the disposal of nonparty compact waste at the compact waste disposal facility. Provides that the surcharge is 20 percent of the total contracted rate and is required to be assessed in addition to the total contracted rate.

Requires TCEQ to conduct a study on the available volume and curie (defined as a unit of radioactivity) capacity of the compact waste disposal facility for the disposal of party state compact waste and nonparty compact waste.

Requires TCEQ, not later than December 1, 2012, to submit a final report of the results of the capacity study to the standing committees of the Senate and the House of Representatives with jurisdiction over the disposal of low-level radioactive waste.

Authorizes the executive director of TCEQ (executive director) to establish interim party state compact waste disposal fees effective only for the time period beginning on the day the compact waste disposal facility license holder is approved to accept waste at the disposal facility and ending on the effective date of the rules establishing the fees.

Prohibits an extension of the period during which interim rates apply from being granted. Requires that all disposal at the compact waste facility cease until the rates are adopted if the State Office of Administrative Hearings has not issued a proposal decision before the expiration of the period.

Authorizes the compact waste disposal facility license holder, at any time after TCEQ has granted approval to begin operating the compact waste disposal facility, to contract rates with nonparty compact waste generators for the disposal of nonparty compact waste at the facility in accordance with the compact waste disposal facility license.

Requires that rates negotiated be set both by the price per curie and a price per cubic foot. Requires that fees resulting from the negotiated rates be greater than, as applicable, the compact waste disposal fees as set by TCEQ that are in effect at the time the rates are negotiated or the interim compact waste disposal fees as set by the executive director that are in effect at the time the rates are negotiated.

Provides that each state that becomes a party state after January 1, 2011, and before September 1, 2018, is required to contribute a total of \$30 million to the host state, including the initial payment and on or after September 1, 2018, and before September 1, 2023, is required to contribute \$50 million to the host state, including the initial payment.

Requires a holder of a license or permit issued by TCEQ that authorizes the storage, other than the disposal, of a radioactive waste or elemental mercury from other persons to remit each quarter to TCEQ for deposit into the general revenue fund an amount equal to 20 percent of the license or permit holder's gross receipts received from the storage of the substance for any period exceeding one year.

Repeals Section 401.248(d) (relating to compacts between other states), Health and Safety Code.

Texas Low-Level Radioactive Waste Disposal Compact Commission—S.B. 1605

by Senator Seliger—House Sponsor: Representative Lewis et al.

In 1980, the United States Congress passed the low-level radioactive waste policy act, which encourages states to join interstate agreements or compacts. This bill:

Provides that the commission established by Article III of the Texas Low-Level Radioactive Waste Disposal Compact (commission) is an independent entity and not a program, department, or other division of, or administratively attached to TCEQ.

Prohibits money from the commission from being appropriated as part of an appropriation for TCEQ.

Requires the commission, on or before December 1 of each even-numbered year, to file with the governor and the appropriate legislative committees a written report that includes certain information regarding the commission's activities.

Requires the attorney general to represent the commission in all matters before the state courts and any court of the United States.

Provides that the commission is subject to review under Chapter 325 (Texas Sunset Act), Government Code, as if it were a state agency subject to review under that chapter, but is prohibited from being abolished under that chapter.

Provision of Certain Parks and Recreational Facilities in El Paso County—S.J.R. 28

by Senator Rodriguez—House Sponsor: Representative Marquez

In 2009, the City of El Paso formed a blue ribbon committee on regional parks (blue ribbon committee) to evaluate and provide recommendations to the city council regarding the creation of a regional parks system. The blue ribbon committee studied the viability of a regional park system, the structure and funding options for a local model, and the process for obtaining state approval. Shortly after the conclusion of this study, both the El Paso city council and the El Paso County commissioners court agreed to seek a constitutional amendment to allow El Paso County to be included in the list of Texas counties authorized to create conservation and reclamation districts to develop parks and recreational facilities and finance those parks and facilities with taxes. This bill:

Authorizes the legislature, in addition and only as provided by this resolution, for development of such parks and recreational facilities, to authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in certain counties, including El Paso County.

Provides that the legislature intends, by the amendment proposed in the resolution, to expand the authority of the legislature with regard to conservation and reclamation districts in El Paso County. Provides that the proposed amendment should not be construed as a limitation on the powers of the legislature or of a district with respect to parks and recreational facilities as those powers exist immediately before the amendment takes effect.

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 8, 2011. Sets forth the required language of the ballot.

Glass Containers Near Riverbeds—H.B. 218

by Representative Gallego—Senate Sponsor: Senator Uresti

Current law allows people to carry glass containers into riverbeds of almost all waterways. That practice has come under public scrutiny as more people make use of waterways for recreational purposes and not all of them dispose of their litter. Glass containers often remain broken along river bottoms, resulting in unsightly messes that can result in injuries to swimmers, anglers, paddlers, campers, and others who use the rivers. This bill:

Provides that a person commits an offense if the person knowingly possesses a glass container within the boundaries of a state-owned riverbed in Uvalde County.

Provides that an offense is a Class C misdemeanor.

Creates defenses for those who are disposing of glass containers, did not transport glass containers to the riverbed, and own property adjacent to the riverbed.

Creates an exception for certain persons possessing a glass container for the purpose of water sampling or conducting scientific research.

Rules for On-Site Sewage Disposal Systems—H.B. 240

by Representative Parker—Senate Sponsor: Senator Nelson

Under current Texas Commission on Environmental Quality (TCEQ) rules, it is possible for a child to accidentally gain access to on-site sewage disposal systems. This bill:

Requires TCEQ to require on-site sewage disposal systems, including risers and covers, installed after September 1, 2012, to be designed to prevent access to the system by anyone other than the owner of the system or certain licensed or otherwise authorized persons.

Permits for Certain Injection Wells—H.B. 444

by Representatives Creighton and Landtroop—Senate Sponsor: Senator Nichols

Currently, when a permit application is filed for a new injection well, TCEQ is required to notify the Department of State Health Services, local governments within the county, landowners, and mineral rights owners adjacent to the property of the well, as well as other interested parties who may then make comments on the permit application. There is no existing requirement that the applicant provide a copy of the application to a local groundwater conservation district (GCD). This bill:

Requires the executive director of TCEQ (executive director), if an application is received in proper form for a permit for an injection well to dispose of industrial and municipal waste and the proposed location of the injection well is in the territory of a GCD, to submit a copy of the application to the governing body of the GCD.

Requires that the record of the proceeding, in addition to certain other requirements relating to evidence to demonstrate proper notice regarding a hearing, include evidence that a copy of each draft proposed by the executive director was provided to the governing body of the GCD and notice of the contested case hearing was mailed to the governing body of the GCD before any testimony is heard in a contested case regarding an application for a permit for an injection well to dispose of industrial and municipal waste that is proposed to be located in the territory of a GCD.

Don't Mess With Texas Water Program—H.B. 451

by Representative Lucio III et al.—Senate Sponsor: Senator Hegar

Illegal dumping is a problem across the nation and throughout the state in both rural and urban areas. Illegal dumping is not only aesthetically unappealing—it can also pose a threat to human health. This bill:

Requires TCEQ by rule to establish the Don't Mess With Texas Water Program (program) to prevent illegal dumping that affects the surface waters of the state by placing signs on major highway water crossings that notify drivers of a toll-free number, which TCEQ is required to establish, to call to report illegal dumping.

Authorizes a local government to work with TCEQ to participate in the program. Authorizes a local government that participates in the program to contribute to the cost of operating the toll-free number hotline.

Requires the Texas Department of Transportation (TxDOT) to cooperate with TCEQ in the placement of signs.

Requires TxDOT to post a sign that complies with program requirements at a major highway water crossing at the time a previously posted sign identifying the crossing or prohibiting dumping at the crossing is scheduled to be replaced.

Fishing License Requirements in Tidal Waters—H.B. 1322

by Representative Scott—Senate Sponsor: Senator Lucio

Game wardens currently lack the authority to enforce violations for fishing without a license in the tidal waters of the state unless sport fishing is actually observed. To enforce such violations, game wardens must follow a vessel to shore where the fish are landed before they can require the person who is in possession of the fish, but who has not been observed sport fishing, to produce a fishing license. This bill:

Provides that no person may fish in the public waters of this state without a fishing license.

Requires a person possessing fish on a vessel in the tidal waters of the state to have a fishing license.

Bond Approval by TCEQ to Certain Water Entities—H.B. 1901

by Representative Keffer—Senate Sponsor: Senator Birdwell

Currently, certain special purpose districts are exempted from the required approval of TCEQ for the issuance of bonds. The rationale behind such exemptions is to eliminate unnecessary hindrances for those districts that are well established with a significant number of customers and an investment grade rating. This bill:

Provides that Section 49.181 (Authority of Commission Over Issuance of District Bonds), Water Code, does not apply to bonds issued by a public utility agency created under Chapter 572 (Water Provisions Applying to More Than One Type of Local Government), Local Government Code, any of the public utilities participating in which are districts if at least one of those districts is a district described by Subsection (h)(1)(E), (relating to Section 49.181 not being applicable if the district on September 1, 2003, is a municipal utility district that includes territory in only two counties, has outstanding long-term indebtedness that is rated BBB or better, and has at least 5,000 active water connections), Water Code.

Creation of the Corn Hill Regional Water Authority—H.B. 2360

by Representative Schwertner—Senate Sponsor: Senator Ogden

A recent regional water planning study by the Texas Water Development Board (TWDB) has identified the need for construction and financing of extensive water development infrastructure in order to serve the needs of both the member entities and other political subdivisions in the planning area. The land located within the proposed authority is slated for single-family residential and commercial development. This bill:

Creates the Corn Hill Regional Water Authority (authority) in Williamson County.

Prohibits the authority from imposing a tax.

North Harris County Regional Water Authority—H.B. 2418

by Representative Callegari—Senate Sponsor: Senator Patrick

The legislature created the North Harris County Regional Water Authority (authority) in 1999 to provide a way for 160 water districts in the area of the authority to comply with the Harris-Galveston Subsidence District by having surface water delivered to them. The way the boundaries are described split some of the water districts so that some of their territory is in the authority and some is not. Some people who live in districts and receive and pay for services in the authority cannot vote for its board of directors because they live outside of the original boundaries. This bill:

Provides that the authority includes certain territory only if that territory is also in one or more of state representative districts 126, 127, 130, 135, and 150.

Provides that the authority also includes the territory of the Harris County Municipal Utility District No. 16, the Harris County Municipal Utility District No. 26, the Harris County Municipal Utility District No. 233, the Richey Road Municipal Utility District, the Harris County Water Control and Improvement District No. 109, the Inverness Forest Improvement District, and the Memorial Hills Utility District.

Provides that the territory of the authority does not include property that lies within the boundaries of a local government, other than the authority, if the local government had a groundwater reduction plan approved by the subsidence district before January 1, 2010, and the property was included in the local government's approved groundwater reduction plan on January 1, 2010.

Provides that territory annexed by a local government located in the authority becomes territory of the authority on the effective date of the annexation, unless the annexed territory is included in another local government's approved groundwater reduction plan as of the effective date of the annexation. Authorizes the authority by rule to require the local government to send to the authority written notice of the effective date of an annexation and copies of documents describing the annexed land and describing the new boundaries of the local government.

Provides that if the territory is added to the service area of a person owning a water system located in the authority, it becomes territory of the authority on the effective date of the territory's addition to the service area, unless the added territory is included in another local government's approved groundwater reduction plan as of the effective date of the addition. Authorizes the authority by rule to require the person to send to the authority written notice of the effective date of an annexation and copies of documents describing the annexed land and describing the new boundaries of the local government.

Provides that the annexation or addition of territory to the authority does not affect the validity of bonds issued by the authority.

Authorizes the authority to bring an action in a district court against a district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover any fees, rates, charges, assessments, collection expenses, attorney's fees, interest, penalties, or administrative penalties due the authority; or enforce the authority's rules or orders.

Provides that governmental immunity from suit or liability of a district or other political subdivision is waived for the purposes of an action.

Issuance of a Certificate for a Municipal Setting Designation—H.B. 2826

by Representatives Murphy and Coleman—Senate Sponsor: Senator Huffman

A municipal setting designation (MSD) prevents the drilling of a water well on a specific property at an owner's request. The current application process effectively prevents an applicant from acquiring the designation. Under current law, in order for TCEQ to issue permits, a city where the property is located, as well as every city within five miles of the property in a city or retail public utility owning or operating a well, must affirmatively pass a resolution in support of the application. If even one of these entities declines to adopt a resolution in support or simply fails to act, the application cannot be issued. This bill:

Requires that the proof of notice for a person seeking to obtain an MSD include, if the property for which the MSD is sought is located in a municipality that has a population of two million or more and the applicant intends to comply with certain requirements for issuance of an MSD certificate by complying with the requirements outlined in Section 361.8065(c) (relating to requiring that no resolution opposing the application has been adopted within 120 days of receipt of the notice by certain local entities and that the property for which designation is sought is subject to certain ordinances is currently or has previously been under oversight by TCEQ or the United States Environmental Protection Agency and is subject to covenants relating to potable water and groundwater safety), Health and Safety Code, as added by this bill, statements that applicable municipalities or a public utilities have 120 days from the date of receipt of the notice to pass a resolution opposing the application for an MSD.

Requires the applicant, except as provided by Section 361.8065(c), Health and Safety Code, before the executive director of TCEQ is authorized to issue an MSD, to provide documentation that the application is supported by a resolution adopted by certain local government entities, that the property for which designation is sought is subject to certain ordinances and covenants relating to potable water and groundwater safety.

Authorizes the documentation required under Section 361.8065(c)(1) (relating to requiring that no resolution opposing the application has been adopted within 120 days of receipt of the notice by certain local entities), Health and Safety Code, be in the form of an affidavit of the applicant or the applicant's representative.

Creation of the Terrell County Groundwater Conservation District—H.B. 2859

by Representative Gallego—Senate Sponsor: Senator Uresti

The lack of a water conservation district in Terrell County hinders any efforts to protect historic users and keep a sustainable approach to maintain the Edwards-Trinity aquifer system. There are no towns in Terrell County, but the commissioners court has passed a resolution in support of the creation of the Terrell County Groundwater Conservation District (district). This bill:

Creates the district, and provides the authority to impose a tax and issue bonds.

Exempting Certain Conservation and Reclamation Districts from Filing an Audit—H.B. 3002

by Representative Hughes—Senate Sponsor: Senator Eltife

By law, conservation reclamation districts are required to submit an annual audit report to TCEQ. Currently, a district with gross receipts not in excess of \$100,000 may elect to file a financial report in lieu of an audit. This exemption is important to small districts because a financial audit is substantially more expensive than a financial report. This bill:

Increases the exemption threshold from \$100,000 to \$250,000.

Rulemaking Power of Certain GCDs—H.B. 3109

by Representative Craddick—Senate Sponsor: Senator Seliger

The Texas Legislature has allowed certain municipalities and other political subdivisions to make long-range plans regarding the supply and availability of water. This bill:

Requires a groundwater conservation district (GCD) that is created on or after September 1, 1991, except as provided by Section 36.117 (Exemptions; Exception; Limitations), Water Code, to exempt from regulation a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 or less but greater than 100,000 and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 115,000 or less, and that purchased, owned, or held rights to the water before the date on which the GCD was created, regardless of the date the well is drilled or the water is produced.

Rainwater Harvesting Systems Connected to Public Water Supplies—H.B. 3372

by Representatives Tracy O. King and Landtroop—Senate Sponsor: Senator Jackson

From a regulatory perspective, TCEQ has rules that only apply to a rainwater system that supplies potable water for a public water system or for any business that manufactures food or beverages. A public water system is defined as any system that serves at least 25 people per day for at least 60 days each year or that serves at least 15 service connections. This bill:

Requires TCEQ to work with the Department of State Health Services to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system. Requires that the rules contain certain criteria that ensure that safe sanitary drinking water standards are met and harvested rainwater does not come into communication with a public water supply system's drinking water at a location off of the property on which the rainwater harvesting system is located.

Requires that a person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes be licensed by the Texas State Board of Plumbing Examiners (TSBPE) as a master plumber or journeyman plumber and hold an endorsement issued by TSBPE as a water supply protection specialist.

Requires a person who intends to connect a rainwater harvesting system to a public water supply system for the use of potable purposes to give written notice to the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connecting the rainwater harvesting system to the public water supply system.

Prohibits a municipally owned water or wastewater utility, a municipality, or the owner or operator of a public water supply system from being held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system that is connected to a public water supply system and is used for potable purposes if the municipally owned water or wastewater utility, municipality, or public water supply system is in compliance with the sanitary standards for drinking water applicable to the municipally owned water or wastewater utility, municipality, or public water system.

Rainwater Harvesting and Other Water Conservation Initiatives—H.B. 3391

by Representative Doug Miller—Senate Sponsor: Senator Seliger

The use of harvested rainwater is typically restricted to nonpotable purposes such as landscape irrigation, laundry, and toilet flushing. Water surges are becoming more prevalent throughout the state and it is important to recognize both potable and nonpotable harvested rainwater along with other reclamation technologies as desirable and sustainable water resources. This bill:

Authorizes financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply.

Requires that certain procedural standards require that on-site reclaimed system technologies, including for potable use, be incorporated into the design and construction of certain buildings and that rainwater harvesting system technology for potable and nonpotable indoor use and landscape watering be incorporated into the design and construction of each new state building with a roof measuring at least 50,000 square feet that is located in an area of the state in which the average annual rainfall is at least 20 inches.

Provides that the procedural standards required by the bill apply to a certain building described in the bill unless the standards are impractical for certain buildings and the State Energy Conservation Office (SECO) is notified of that fact or the state agency or institution of higher education constructing the building provides SECO evidence that the amount of rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

Limitation on Production Fees on Certain Groundwater Withdrawals—H.B. 3818

by Representative Geren—Senate Sponsor: Senator Harris

Currently there are 96 confirmed groundwater districts that either have approved management plans or have management plans that are in the process of being approved. These districts finance their maintenance and operations by charging user fees. Except for the Northern Trinity Groundwater Conservation District (NTGCD), every conservation district that surrounds Tarrant County is authorized to assess fees on the operations of groundwater at a rate not to exceed \$.30 per thousand gallons of water for non-agricultural use. This bill:

Prohibits a production fee assessed by NTGCD on the amount of groundwater authorized by a permit to be withdrawn from a well or the amount of groundwater actually withdrawn from exceeding \$1 for each acre-foot of groundwater permitted for or used in a year solely for agricultural use or 20 cents for each 1,000 gallons of groundwater permitted for or used in a year for any purpose other than agriculture.

Riverbend Water Resources District—H.B. 3847

by Representative Lavender—Senate Sponsor: Senator Eltife

The Riverbend Water Resources District (district) was created by the 81st Legislature in 2009, and serves the citizens of Bowie and Red River counties. This bill:

Restructures the district's board of directors and appoints a temporary administrator to oversee the transition to the new board.

Elections for the Hill Country Underground Water Conservation District—H.B. 3866

by Representative Doug Miller—Senate Sponsor: Senator Fraser

Voter turnout for Saturday Elections in May traditionally has been lower than for November general elections. This bill:

Changes the election date for the directors of the Hill Country Underground Water Conservation District to November of even-numbered years.

Calculation and Reporting of Water Usage—S.B. 181

by Senator Shapiro et al.—House Sponsor: Representative Laubenberg et al.

The most common metric used to measure water usage is gallons per capita per day (GPCD). GPCD is a planning tool that is used to project the future water needs of each municipality, as well as to implement and track water conservation efforts. There is no consistent formula by which GPCD is calculated, which can adversely impact a municipality's planning ability and conservation efforts. In order for GPCD measures to be effective and to make a true comparison of water usage and future needs, these measurements and methods of calculation need to be uniform. Currently, total GPCD does not produce reliable comparisons between utilities and water districts, or reflect the differences in industrial, commercial, and institutional uses among communities. This bill:

Requires each regional water planning group to submit to TWDB a regional water plan that meets certain requirements and includes information on projected water use and conservation in the regional water planning area and the implementation of state and regional water plan projects, including water conservation strategies, necessary to meet the state's projected water demands.

Requires TWDB and TCEQ, in consultation with the Water Conservation Advisory Council (WCAC), to develop a uniform, consistent methodology and guidance for calculating water use and conservation to be used by a municipality or water utility in developing water conservation plans and preparing reports. Requires that the methodology and guidance include certain methods of calculation.

Requires TWDB or TCEQ, as appropriate, to use the methodology and guidance in evaluating a water conservation plan, program of water conservation, survey, or other report relating to water conservation submitted to TWDB or TCEQ under certain sections of the Water Code.

Requires TWDB, in consultation with TCEQ and WACAC, to develop a data collection and reporting program for municipalities and water utilities with more than 3,000 connections.

Requires TWDB, not later than January 1 of each odd-numbered year, to submit to the legislature a report that includes the most recent data relating to statewide water usage in the residential, industrial, agricultural, and institutional sectors and the data collection and reporting program.

Requires TCEQ and TWDB to adopt rules and standards to implement the provisions of this bill.

Priority Groundwater Management Areas—S.B. 313

by Senator Seliger—House Sponsor: Representative Price

Many areas of the state are producing significant amounts of groundwater without proper oversight and regulation by an existing GCD. TCEQ projects future groundwater production using a 25-year horizon to determine areas where oversight and regulation may be needed. Areas identified by TCEQ for potential oversight and regulation are designated as priority groundwater management areas (PGMA). Extending the horizon to 50 years would allow for more comprehensive projections and correspond to current statewide planning processes, such as the State Water Plan. This bill:

Requires the executive director of TCEQ and the executive administrator of TWDB to meet periodically to identify, based on information gathered by TCEQ and TWDB, those areas of the state that are experiencing or that are expected to experience, within the immediately following 50-year period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies.

Authorizes TCEQ to adopt rules regarding the creation of a district over all or part of a priority groundwater management area or under other prior law and the addition of all or part of the land in a priority groundwater management area to an existing district.

Authorizes TCEQ to consider territory in two separately designated PGMA's to be in the same designated PGMA if the two areas share a common boundary and one or more common aquifers and TCEQ determines that a district composed of territory in the two areas will result in more effective or efficient groundwater management than other options available to TCEQ.

Requires the board, not later than the 120th day after the date of receiving a copy of the order to the board of the district to which it is recommending the PGMA be added, to vote on the addition of the PGMA to the district and requires the board to advise TCEQ of the outcome.

Requires the board, if the district has not approved an ad valorem tax on the date of TCEQ's order and the board of the district votes to adopt the addition of the PGMA to the district, to enter an order adding the territory in the district.

Requires the board, if the voters do not approve the assumption of a proportional share of the debts or taxes of a district, to assess production fees in the added territory based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn.

Authorizes TCEQ to amend the territory to adjust for areas that, in the time since the order was issued, have been added to an existing district or created as a separate district or not been added to an existing district or created as a separate district.

Authorizes TCEQ to recommend creation of a new district in the area or that the area be added to a different district.

Ownership, Right to Produce, and Management of Groundwater—S.B. 332

by Senator Fraser et al.—House Sponsor: Representative Ritter

In 1904 the Texas Supreme Court in *Houston & TC Railway Company v. East* established the rule of capture in Texas. The supreme court ruled that a landowner has an ownership interest in the groundwater beneath the

landowner's property. This ownership gives the landowner the right to capture the groundwater without being held liable for damage to others. GCDs were created by the Texas Legislature to be the preferred method of groundwater management. They are charged with the task of protecting and conserving groundwater resources. This bill:

Provides that the legislature recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property.

Provides that the groundwater ownership and rights described by this bill entitle the landowner, including the landowner's heirs, or assigns, to drill for and produce the groundwater below the surface of real property, without causing waste or malicious drainage of other property or negligently causing subsidence, but do not entitle a landowner, including a landowner's lessees, heirs, or assigns, to the right to capture a specific amount of groundwater below the surface of that landowner's land and do not affect the existence of common law defenses or other defenses to liability under the rule of capture.

Requires that nothing in the Water Code be construed as granting the authority to deprive or divest a landowner, including a landowner's lessees, heirs, or assigns, of the groundwater ownership and rights described by Section 36.002 (Ownership of Groundwater), Water Code.

Provides that Section 36.002, Water Code, does not prohibit a district from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the district, affect the ability of a district to regulate groundwater production or a special law governing a district, or require that a rule adopted by a district allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

Operation of Watercraft on the John Graves Scenic Roadway—S.B. 408 [Vetoed]

by Senator Estes—House Sponsor: Representative Keffer

The Brazos River Authority, TCEQ, and TPWD have been unable to conduct winter airboat monitoring runs of the John Graves Scenic Riverway in accordance with the John Graves Act. Current statute requires that these agencies run airboats and collect water samples when water levels are low, which causes damage to the boats and danger to employees. This bill:

Requires that a visual inspection from an aircraft flying over the John Graves Scenic Riverway be conducted at least once in a winter month and at least once in a summer month. Requires that a visual inspection and the drawing of water samples for testing be conducted from the surface of the riverway at least once in a spring month and at least once in a fall month.

Requires TCEQ by rule to prohibit the commercial or recreational use of airboats, fanboats, and similar shallow draft watercraft that use an aircraft-type propeller for propulsion and a hovercraft on the waters of the John Graves Scenic Riverway.

Written Notice to a GCD of Groundwater Contamination—S.B. 430

by Senator Nichols—House Sponsor: Representative Christian

Currently, TCEQ will notify certain entities when usable groundwater has been or is being contaminated. The written notice of the contamination is given to the county judge and the county health officer in each county in which the contamination has occurred, any person suspected of contributing to the contamination, and any state agency with jurisdiction over any person suspected of contributing to the contamination. This bill:

Adds a GCD to the list of those who are required to be notified if the contamination has occurred or is occurring in the jurisdiction of the GCD.

Qualification of Supervisors of a Fresh Water Supply District—S.B. 512

by Senator Hegar—House Sponsor: Representative Creighton

The 80th Legislature, Regular Session, 2007, passed H.B. 2984, which required that in order to qualify for election as a supervisor of a fresh water supply district, a person must own land within the boundaries of the fresh water supply district and removed the requirement that the supervisor be a resident voter of the district. Other similar districts—water control and improvement districts and municipal utility districts—require only that the director be a landowner within the district boundaries. During the interim, there was a voting rights challenge by the United States Department of Justice (DOJ) to H.B. 2984 and the creation of the freshwater supply district was not pre-cleared for election by DOJ. This bill:

Provides that except as provided by Section 53.063(b) (relating to requiring a person to be a registered voter of the district to be qualified for election as supervisor of a district located wholly or partly in Denton County) Water Code, to be qualified for election as a supervisor, a person is required to meet certain requirements, including being a registered voter of the district.

Protection of Water Quality in Certain Bodies of Water—S.B. 525

by Senator Deuell—House Sponsor: Representative Phillips

Chapter 231 (County Zoning Authority), Local Government Code, currently provides authority for counties in areas where certain existing and proposed lakes and reservoirs are located to adopt additional development restrictions within a defined area immediately adjacent to the shoreline. This bill:

Adds the Lower Bois d'Arc Creek Reservoir to the list of lakes and reservoirs already included under the chapter.

Rates Charged for Water Services to Recreational Vehicle Parks—S.B. 569

by Senator Jackson—House Sponsor: Representative Larry Taylor

Recreational vehicle (RV) park and campground owners in Texas are experiencing a disparity in the water and wastewater rates they pay relative to rates charged to similar commercial entities within their communities. This bill:

Requires a district that provides nonsubmetered master water utility service to a RV park, notwithstanding Section 49.2122(a) (relating to charges, fees, rentals, or deposits, among classes of customers) Water Code, to determine the rates for that service on the same basis the district uses to determine the rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered utility service from the district.

Certificates of Public Convenience and Necessity for Water or Sewer Services—S.B. 573

by Senator Nichols et al.—House Sponsor: Representative Creighton et al.

Chapter 13 (Water Rates and Services), Water Code, provides that a landowner may petition TCEQ to be released from a certificate of convenience and necessity (CCN) if the CCN holder is not providing service. The process to be released from a CCN is cumbersome and costly for both the CCN holder and the landowner. Having rights to a CCN is a state-granted monopoly and should come with some responsibilities. In some cases, there is a disincentive for developers to buy and develop land within a CCN. This bill:

Prohibits TCEQ, except as provided by Sections 13.245(c-1) (relating to authorizing TCEQ to grant a CCN without the consent of a municipality under certain circumstances if a municipality has not consented before the 180th day after the date a landowner or a retail public utility submits a formal request for service in a certain manner, including a capital improvements plan or a subdivision plat), and (c-2) (relating to providing that TCEQ is not required to make the findings otherwise required and authorizes TCEQ to make the CCN to the utility at any time after the date of the formal vote or receipt of the official notification if a municipality refuses to provide service in a proposed service area if certain evidence is present), Water Code, from granting a retail public utility a CCN for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality.

Requires TCEQ to include as a condition of a CCN granted under Sections 13.245(c-1) and (c-2), Water Code, that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for water and sewer facilities.

Provides that Sections 13.245(c-1), (c-2), and (c-3) (relating to requiring TCEQ to include as a condition of a CCN that all water and sewer facilities be designed in a certain manner), Water Code, do not apply to a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county, a county with a population of more than 30,000 and less than 35,000 that borders the Red River, or a county with a population of more than 100,000 and less than 200,000 that borders a county with a population of more than 30,000 and less than 35,000 that borders the Red River.

Provides that Sections 13.245(c-1), (c-2), and (c-3), Water Code, do not apply to a county with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border or a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

Prohibits TCEQ from extending a municipality's CCN beyond its extraterritorial jurisdiction if an owner of land that is located wholly or partly outside the extraterritorial jurisdiction elects to exclude some or all of the landowner's property within a proposed service area. Provides that the prohibition does not apply to a transfer of a CCN as approved by TCEQ.

Provides that Section 13.2451(b) (relating to a prohibition from extending a municipality's CCN beyond its extraterritorial jurisdiction in certain circumstances), Water Code, does not apply to an extension of extraterritorial jurisdiction in a county that borders the United States and the Gulf of Mexico or a county adjacent to such a county; a county with extraterritorial jurisdiction in a county with a population of more than 30,000 and less than 35,000 that borders the Red River, or a county with a population of more than 100,000 and less than 200,000 that borders a county with a population of more than 30,000 and less than 35,000 that borders the Red River; and a county with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border or with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

Prohibits an applicant for a CCN that has land removed from its proposed certificated service area because of a landowner's election from being required to provide service to the removed land for any reason, including the violation of law or TCEQ rules by the water or sewer system of another person.

Provides that the fact that a CCN holder is a borrower under a federal loan problem is not a bar to a request for the release of the petitioner's land and the receipt of services from an alternative provider.

Requires the petitioner, on the day the petitioner submits the petition to TCEQ, to send, via certified mail, a copy of the petition to the CCN holder, who is authorized to submit information to TCEQ to controvert information submitted by the petitioner. Requires that the petitioner demonstrate certain information relating to the land and the cost of providing service, and the type of service sought.

Authorizes the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service, as an alternative to decertification and expedited release, to petition for an expedited release of the area from a CCN and provides that the landowner is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,000 and less than 47,500.

Authorizes TCEQ to grant a petition not later than the 60th day after the date the landowner files the petition. Prohibits TCEQ from denying a petition based on the fact that a CCN holder is a borrower under a federal loan program. Authorizes TCEQ to require an award of compensation by the petitioner to a decertified retail public utility that is the subject of a petition.

Requires the utility to include with the statement of intent provided to each landowner or ratepayer a notice of a proceeding relating to certification or decertification, the reason or reasons for the proposed rate change, and any bill payment assistance program available to low-income ratepayers.

Provides that if a CCN holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area a petitioner seeks to have released, TCEQ is not required to find that the proposed alternative provider is capable of providing better service than the CCN holder, but only that the proposed provider is capable of providing the service.

Provides that Section 13.254(a-8) (relating to not requiring TCEQ to find that a proposed alternative provider is capable of providing better service than the CCN holder), Water Code, does not apply to a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to a county that borders the United Mexican States and the Gulf of Mexico.

Provides that Section 13.254(a-8), Water Code, does not apply to a county a county with a population of more than 30,000 and less than 35,000 that borders the Red River or a county with a population of more than 100,000 and less than 200,000 that borders a county with a population of more than 30,000 and less than 35,000 that borders the Red River.

Provides that Section 13.254(a-8), Water Code, does not apply to a county with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border or with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

Prohibits a CCN holder that has land removed from its certificated service area from being required, after the land is removed, to provide service to the removed and for any reason, including the violation of law or TCEQ rules by a water or sewer system of another person.

Composition of the Board of Directors of the Gulf Coast Water Authority—S.B. 683

by Senators Huffman and Hegar—House Sponsor: Representative Bonnen

The Galveston County Water Authority (authority) was created in 1965 by the Texas Legislature to provide an adequate water supply for municipal, domestic, manufacturing, irrigation, and other useful purposes for the inhabitants and water users of Galveston County. Since its creation, the authority has grown in both capacity and customer base, and the authority no longer supplies water to just the citizens, municipalities, and industries of Galveston County. Approximately 40 percent of the authority's total contracted water volume is from outside Galveston County, in Brazoria and Fort Bend counties. On September 1, 1991, the name of the authority was changed to the Gulf Coast Water Authority (GCWA). GCWA is managed and controlled by a board of directors

consisting of seven board members, all of whom are appointed by the Commissioners Court of Galveston County. In 1996, the GCWA committed, in writing, to add two voting members to the board. This bill:

Adds two members to the board of directors of GCWA (board).

Requires that one director be appointed by the Commissioners Court of Fort Bend County and one director be appointed by the Commissioners Court of Brazoria County. Requires that both directors be recommended by one or more of those customers and reside in that county.

Exemption From Permitting by GCDs for Certain Water Wells—S.B. 691

by Senator Estes—House Sponsor: Representative Tracy O. King

GCDs have reported problems with individuals and attorneys interpreting Section 36.117(b) (relating to prohibiting a GCD from requiring any permit issued by the GCD for certain wells), Water Code, to mean that it is necessary to meet one factor, rather than the legislative intent that all three factors be met. This bill:

Prohibits a GCD from requiring any permit issued by the GCD for certain wells, including a well used solely for domestic use, or for providing water for livestock or poultry, if the well is located on a tract of land larger than 10 acres and either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day.

Exemptions From GCD Permit Requirements—S.B. 692

by Senator Estes—House Sponsor: Representative Doug Miller

Currently, GCDs across the state may require drilling or operating permits based on the use of the groundwater to be withdrawn, but the provisions of Chapter 36 (Groundwater Conservation Districts), Water Code, seem to state that the exemptions apply to the well, rather than the groundwater use. This leads to confusion and potential litigation over the meaning and legislative intent for these exemptions. Once a well is permitted because of its exempt use, GCDs lose their ability to regulate that well. This is problematic in situations where the initial, exempt use changes, often due to development of the property, thus changing its domestic nature. The new use is no longer exempt; however, the property owners contend that the well is still exempt from GCD regulation. This bill:

Authorizes a GCD by rule to provide an exemption from the GCD's requirement to obtain a drilling permit, an operating permit, or any other permit required or the GCD's rules.

Requires a GCD, except as provided by Section 36, Water Code, to provide an exemption from the GCD requirement to obtain a permit for drilling or operating a well used solely for domestic use or for providing water for livestock or poultry if the well is located or to be located on a tract of land larger than 10 acres and drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day; drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas (railroad commission) provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig; or drilling a water well authorized under a permit issued by the railroad commission under Chapter 134 (Texas Surface Coal Mining and Reclamation Act), Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

Prohibits a GCD from restricting the production of water from any well described in Section 36.117(b)(1) (relating to drilling or operating a certain well used solely for domestic use or for providing water for livestock or poultry), Water Code.

Authorizes a GCD to cancel a previously granted exemption and to require an operating permit for or restrict production from a well if the well is located in the Hill Country Priority Groundwater Management Area and the groundwater withdrawals that were exempted by Section 36.117(b)(1), Water Code, are no longer used solely for domestic use or to provide water for livestock or poultry, the groundwater withdrawals that were exempted by Section 36.117(b)(2) (relating to drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the railroad commission provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig), Water Code, are no longer used solely to supply water for a rig that is actively managed in drilling or exploration operations for an oil or gas well permitted by the railroad commission, or the groundwater withdrawals that were exempted in Section 36.117(b)(3) (relating to or drilling a water well authorized under a permit issued by the railroad commission under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water), Water Code, are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issues by the railroad commission under Chapter 134, Natural Resources Code.

Authorizes a GCD to require compliance with the GCD's well spacing rules for drilling of any well except a well exempted under Section 36.117(b)(3), Water Code.

Requires a district to require the owner of a water well to register the well in accordance with rules promulgated by the GCD and equip and maintain the well to conform to the GCD's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

Requires the driller of a well to file with the GCD the well log required by Section 1901.251 (Well Log), Occupations Code, and, if available, the geophysical log.

Provides that an exemption provided under Section 36.117(b), Water Code, does not apply to a well if the groundwater withdrawn is used to supply water for a subdivision of land for which a plat approval is required by Chapter 232 (County Regulation of Subdivisions), Local Government Code.

Provides that groundwater withdrawn under an exemption provided in accordance with Section 36.117 (Exemptions, Exception, Limitations), Water Code, and subsequently transported outside the boundaries of the district is subject to any applicable production and export fees under Sections 36.122 (Transfer of Groundwater Out of District) and 36.205 (Authority to Set Fees), Water Code.

Permit Application and Amendment Hearings Conducted by GCDs and SOAH—S.B. 693

by Senator Estes—House Sponsor: Representative Price

Under current law, a GCD may contract with the State Office of Administrative Hearings (SOAH) to conduct a hearing in connection with the application for a permit or a permit amendment. Most groundwater districts are governed by a board of directors elected on a local basis. With increasing frequency, these directors are being called upon to make contentious permitting decisions that can involve multiple parties, complex contested facts, and varying interpretations of law. This bill:

Requires that a hearing be conducted by certain persons, including SOAH under Section 36.416 (Hearings Conducted by State Office of Administrative Hearings), Water Code.

Requires the president of the GCD board (board) or the hearings examiner, except as provided by Section 36.406 (relating to authorizing the directors conducting the hearing, if the hearing is conducted by a quorum of the board and the board president is not present, to select a director to serve as the presiding officer), Water Code, or Section 36.416, Water Code, to serve as the presiding officer at the hearing.

Authorizes the GCD to adopt rules for a hearing that are consistent with the procedural rules of SOAH.

Requires a GCD, if requested by the applicant or other party to a contested case, to contract with SOAH to conduct the hearing. Requires the applicant or other party, if the GCD does not prescribe a deadline by rule, to request the hearing before SOAH not later than the 14th day before the date the evidentiary hearing is scheduled to begin. Requires that the hearing be held in Travis County or at a location described by Section 36.403(c) (relating to the requirement of the location for hearings), Water Code. Requires the GCD to choose the location.

Requires the party requesting the hearing before SOAH to pay all costs associated with the contract for the hearing and to deposit with the GCD an amount sufficient to pay the contract amount before the hearing begins. Requires the GCD, at the conclusion of the hearing, to refund any excess money to the paying party. Authorizes all other costs to be accessed as authorized by Chapter 36 (Groundwater Conservation Districts), Water Code, or GCD hearing rules.

Provides that in a proceeding for a permit application or amendment in which a GCD has contracted with SOAH for a contested case hearing, the GCD has the authority to make a final decision on consideration of a proposal for our decision issued by an administrative law judge.

Requires the GCD to adopt rules to establish a procedure for preliminary and evidentiary hearings, allow the presiding officer, at a preliminary hearing by the GCD and before a referral of the case to SOAH, to determine a party's right to participate in a hearing according to Section 36.415(b)(2) (relating to limiting participation in a hearing), Water Code, and set a deadline for a party to file a request to refer a contested case to SOAH under Section 36.146, Water Code.

GCD Management Plans—S.B. 727

by Senator Seliger—House Sponsor: Representative Beck

A GCD management plan includes goals such as providing the most efficient use of groundwater, controlling and preventing waste, and addressing subsidence of groundwater. This bill:

Changes all references relating to a comprehensive management plan and district management plan to a management plan.

Management of Groundwater Production by GCDs—S.B. 737

by Senator Hegar—House Sponsor: Representative Price

S.B. 1, passed by the 75th Legislature, Regular Session, 1997, established a regional and state water planning process in addition to establishing that groundwater districts are the state's preferred method of groundwater management through rules developed, adopted, and promulgated by a district in accordance with Chapter 36 (Groundwater Conservation Districts), Water Code. H.B. 1763, passed by the 79th Legislature, Regular Session, 2005, changed how the amount of groundwater available for use is determined in Texas. Districts are now required

to work together in each groundwater management area to develop desired future conditions (DFC) for their groundwater resources. After a DFC is established for an aquifer under Section 36.108 (Joint Planning in Management Area), the statute requires that the Texas Water Development Board (TWDB) model the DFC and submit to the districts and regional water planning groups the "managed available groundwater" (MAG). The MAG is the amount of groundwater the model predicts may be produced under a permit to meet or "achieve" the DFC established by the districts for that particular aquifer. Two issues have arisen regarding the requirements of the current law. For the MAG to be truly representative of how much groundwater can be produced while still achieving the DFC, the MAG cannot just represent how much groundwater is produced under permits issued by the district. This bill:

Updates the definition of "modeled available groundwater" to "managed available groundwater" to mean that the amount of water that the executive administrator of TWDB (executive administrator) determines may be produced on an average annual basis to achieve a DFC.

Requires a GCD, to the extent possible, to issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable DFC under Section 36.108 (Joint Planning in Management Area), Water Code.

Requires the GCD, in issuing permits, to manage total groundwater production on a long-term basis to achieve an applicable DFC and consider the MAG determined by the executive administrator, the executive administrator's estimate of current and projected amount of groundwater produced exemptions, the amount of groundwater authorized under permits previously issued by the GCD, a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the GCD, and yearly precipitation and production patterns.

Requires the executive administrator, in developing the estimate of exempt use, to solicit information from each applicable GCD.

Authority of Seawall Commission to Build and Maintain Recreational Facilities—S.B. 801

by Senator Hegar—House Sponsor: Representative Weber

The Matagorda Seawall Commission (commission) was created in 1983. The powers of the commission relate to the general maintenance, construction, and improvement of a seawall, breakwater, levee, floodway, or drainway, as well as beach renourishment and erosion response projects. This bill:

Authorizes the commission to establish, construct, and maintain recreational facilities for public use adjacent to the seawall in Matagorda County.

Directors of the Colorado County Groundwater Conservation District—S.B. 987

by Senator Hegar—House Sponsor: Representative Kleinschmidt

The enabling legislation for the Colorado County Groundwater Conservation District (district) provides for seven directors, with four representing the commissioners' precincts, and the other three directors representing and each residing within the city limits of Columbus, Eagle Lake, and Weimer. Each of these cities has a population between 2,000 and 4,000 people, and it has been difficult finding candidates for office who live within the city limits. There have been volunteers for candidacy who live outside of the city limits, but they do not qualify. One of the directors' positions has been vacant for the past year. This bill:

Authorizes a director of the district (director) to serve only two full consecutive terms in the same position.

Requires that except as provided by Section 8824.052(e) (relating to territory added to the district), Special District Local Laws Code, the directors of the district be elected in a certain manner, including that the directors for positions 5 through 7 are required to reside in Colorado County and are elected at large by the voters of the district.

Rainwater Harvesting Systems Connected to Public Water Supply Systems—S.B. 1073

by Senator Jackson—House Sponsor: Representative Tracy O. King

H.B. 4299 (relating to rainwater harvesting and other water conservation initiatives), 81st Legislature, Regular Session, 2009, ultimately did not pass in the Senate. One of the provisions of the bill was a fix to S.B. 3 (relating to the development, management, and preservation of the water resources of the state; providing penalties), 80th Legislature, Regular Session, 2007, that provided that any connection to the property by a city water supply means that only non-potable use of rainwater is allowed. This bill:

Requires TCEQ by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use, the structure must have appropriate cross-connection safeguards.

Requires TCEQ to work with the Department of State Health Services to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system. Sets forth the requirements the rules must meet.

Strategic Partnerships for the Continuation of Certain Water Districts—S.B. 1082

by Senator Hegar—House Sponsor: Representative Laubenberg

Current law provides that only municipal utility districts and water control and improvement districts may enter into strategic partnership agreements with municipalities that allow for the limited annexation of certain areas within such districts into the municipality and the continuation of the districts for an agreed amount of time. This bill:

Requires that a district or the area of a district annexed for limited purposes be in the municipality's extraterritorial jurisdiction and contiguous to the corporate boundaries of the municipality or an area annexed by the municipality for limited purposes, unless the district consents to noncontiguous annexation under a strategic partnership agreement with the municipality.

Prohibits a municipality from regulating the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

Water Rights Permits Issued for the Allens Creek Reservoir—S.B. 1132

by Senator Hegar—House Sponsor: Representative Thompson

In order to meet the growing water needs of Texas residents, the state will have to use water efficiently as well as look for other alternatives for water supplies such as building new water reservoirs. The Allens Creek Reservoir is a proposed reservoir on Allens Creek, a tributary of the Brazos River located near the city of Wallis in Austin County. It is a joint project between the City of Houston and the Brazos River Authority (BRA) with the city owning 70 percent of the project and BRA owning 30 percent. The permit to appropriate state water, Permit No. 2925, was issued to TWDB by the Texas Natural Resource Conservation Commission (predecessor agency to TCEQ) on September 1, 1999, and contained dates by which the project was to commence and by which construction of the dam and reservoir authorized in the permit were to be completed. The current deadline for commencement on the project is September 1, 2018. This bill:

Extends the deadline for commencement of the project to September 1, 2025.

Director Elections and Powers of the Texana Groundwater Conservation District—S.B. 1895

by Senator Hegar—House Sponsor: Representative Morrison

In 2001, the 77th Texas Legislature passed H.B. 1274, which was the enabling legislation for the Texana Groundwater Conservation District (district) to manage Jackson County's groundwater resources. The district was subsequently approved by the voters of Jackson County, who later approved the tax authority of the district. This bill:

Changes the election date for the board of directors from the May uniform election date to the November uniform election date.

Prohibits the district from exercising the powers granted by Section 36.105 (Eminent Domain), Water Code.

Prohibits the district from contracting with a river authority to perform district functions except as provided by Chapter 791 (Interlocal Cooperation Contracts), Government Code.

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S.B. 1002	848	S.B. 1176	889
S.B. 1003	475	S.B. 1178	300
S.B. 1008	588	S.B. 1179	591
S.B. 1009	169	S.B. 1184	446
S.B. 1010	66	S.B. 1185	754
S.B. 1020	169	S.B. 1187	418
S.B. 1024	66	S.B. 1195	389
S.B. 1026	417	S.B. 1196	418
S.B. 1030	464	S.B. 1197	420
S.B. 1035 [Vetoed]	824	S.B. 1198	420
S.B. 1042	196	S.B. 1200	68

S.B. 1208	89	S.B. 1393	851
S.B. 1209	84	S.B. 1404	755
S.B. 1216	427	S.B. 1410	197
S.B. 1217	565	S.B. 1413	755
S.B. 1220	266	S.B. 1414	171
S.B. 1225	495	S.B. 1416	69
S.B. 1226	619	S.B. 1420	717
S.B. 1228	390	S.B. 1421	682
S.B. 1229	566	S.B. 1422	835
S.B. 1230	851	S.B. 1431	370
S.B. 1231	566	S.B. 1433	373
S.B. 1233	464	S.B. 1434	852
S.B. 1234	444	S.B. 1438	302
S.B. 1241	85	S.B. 1441	756
S.B. 1242	390	S.B. 1449	304
S.B. 1243	464	S.B. 1477	867
S.B. 1248	833	S.B. 1478	568
S.B. 1250	495	S.B. 1480	472
S.B. 1258	496	S.B. 1484	197
S.B. 1269	662	S.B. 1489	390
S.B. 1271	663	S.B. 1490	428
S.B. 1272	171	S.B. 1492	445
S.B. 1273	68	S.B. 1493	868
S.B. 1285	890	S.B. 1496	663
S.B. 1286	890	S.B. 1504	497
S.B. 1290	447	S.B. 1505	756
S.B. 1291	591	S.B. 1518	593
S.B. 1292	681	S.B. 1521	392
S.B. 1295	496	S.B. 1522	70
S.B. 1303	663	S.B. 1534	891
S.B. 1308	428	S.B. 1543	198
S.B. 1311	833	S.B. 1545	664
S.B. 1320	333	S.B. 1546	757
S.B. 1322	85	S.B. 1551	429
S.B. 1327	681	S.B. 1557	199
S.B. 1330	834	S.B. 1560	314
S.B. 1331	85	S.B. 1568	96
S.B. 1338	592	S.B. 1578	836
S.B. 1341	754	S.B. 1588	15
S.B. 1342	567	S.B. 1596	852
S.B. 1352	444	S.B. 1598	569
S.B. 1353	568	S.B. 1600	70
S.B. 1356	471	S.B. 1605	499
S.B. 1357	471	S.B. 1608	837
S.B. 1360	245	S.B. 1610	837
S.B. 1361	497	S.B. 1613	682
S.B. 1368	334	S.B. 1616	71
S.B. 1378	69	S.B. 1617	429
S.B. 1383	196	S.B. 1618	664
S.B. 1385	755	S.B. 1619	199
S.B. 1386	834	S.B. 1620	200

