



# Summary of Enactments 82nd Legislature

Regular Session  
1st Called Session  
2011





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**Regular Session**  
**1st Called Session**  
**2011**

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# Foreword

The Summary of Enactments of the 82nd Legislature provides synopses of all bills enacted and all joint resolutions proposing amendments to the Texas Constitution passed by the legislature during the 2011 Regular Session and 1st Called Session. When a measure has been vetoed by the governor, the reason for the veto, as stated in the governor's veto proclamation, is included with the synopsis.

This publication is intended to be a convenient reference to the main features of enacted measures. A summary of a measure should not be considered a comprehensive or legal analysis, nor should it be used as a source of authority for legal interpretation. For specific, detailed information, the act itself should be examined.

An online version of the publication, with links to enacted bill text, is available at [www.tlc.state.tx.us/session.htm](http://www.tlc.state.tx.us/session.htm). Online access to text of enrolled bills and resolutions, their bill histories, bill analyses, and fiscal notes, and these summaries is provided to the public through the Internet at [www.legis.state.tx.us](http://www.legis.state.tx.us) and to the legislative community through the legislative intranet at <http://tlis>. An advantage of these online resources is that their search capabilities can be used to find, for example, all enrolled bills authored by a particular member of the legislature, referred to a particular senate or house committee, or containing provisions on a particular subject and then to access the summaries for that group of bills. This publication organizes the summaries into chapters based on their primary subject matter.

Other sources of information on legislation include:

Sunset bills (list)—[www.sunset.state.tx.us/legislation11.htm](http://www.sunset.state.tx.us/legislation11.htm)

Vetoed bills (list)—[www.lrl.state.tx.us/legis/Vetoed/lrlhome.cfm](http://www.lrl.state.tx.us/legis/Vetoed/lrlhome.cfm)

Proposed constitutional amendments

[www.lrl.state.tx.us/legis/ConstAmends/index.cfm](http://www.lrl.state.tx.us/legis/ConstAmends/index.cfm)

[www.tlc.state.tx.us/const\\_amends.htm](http://www.tlc.state.tx.us/const_amends.htm)

Paper copies of enrolled bills and resolutions from the 82nd Legislature, Regular Session and 1st Called Session, may be obtained from house and senate document distribution offices until October 2012. House measures are available from the House Document Distribution Office, located in Room B.324 of the Robert E. Johnson, Sr., Legislative Office Building, 1501 N. Congress Avenue (P.O. Box 12128, Austin, Texas 78711; (512) 463-1144). Senate measures are available from the Senate Bill Distribution office, located in Room 190 in the Sam Houston State Office Building, 201 E. 14th Street (P.O. Box 12068, Austin, Texas 78711; (512) 463-0252). The public may also obtain copies of all enrolled bills and resolutions from the Legislative Reference Library, located in Room 2N.3 of the Capitol (P.O. Box 12488, Austin, Texas 78711; (512) 463-1252).



# Introduction

The regular session of the 82nd Legislature convened on January 11, 2011, and adjourned *sine die* on May 30, 2011. Of the 1,379 bills enacted during the session, 24 bills, as well as several items of appropriation in the General Appropriations Act, were subsequently vetoed by Governor Rick Perry. Lawmakers also passed 11 joint resolutions proposing 10 amendments to the Texas Constitution. (House Joint Resolution 130 does not propose a constitutional amendment.) The proposed amendments were offered for approval on the November 8, 2011, election ballot.

Following *sine die* adjournment of the regular session, the 82nd Legislature met in one called session that convened on May 31, 2011, and adjourned *sine die* on June 29, 2011.

		Filed	Passed	Vetoed*
<b>Bills</b>	Regular	5,796	1,379	24
	1st C.S.	114	8	0
<b>Joint Resolutions</b>	Regular	207	11	0
	1st C.S.	7	0	0

\*The governor also vetoed several items of appropriation in House Bill 1, the General Appropriations Act.





# Enactments of the 82nd Legislature

## Agriculture

This chapter covers legislation on ranching, farming, and maintaining a healthy agricultural sector. It includes legislation relating to livestock, animal health, food and fiber crops, and fertilizer regulation. Legislation involving agricultural irrigation is in the **Water** chapter or **Special Districts** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### **House Bill 92**

**Effective:** 9-1-11

**House Author:** Cook et al.

**Senate Sponsor:** Estes et al.

House Bill 92 amends the Agriculture Code provision that defines “slaughterer,” for purposes of state laws governing the slaughtering of livestock, to mean a person engaged in the business of selling livestock, as a primary business, to be slaughtered by the purchaser on premises owned or operated by the seller in a county with a population of one million or more. The bill expands the definition to include a person engaged in such business in certain counties, in addition to a county with a population of one million or more.

House Bill 92 amends the Local Government Code to expand the applicability of provisions relating to county regulation of businesses and occupations regarding slaughterers to include the unincorporated area of certain counties.

### **House Bill 338**

**Effective:** 9-1-11

**House Author:** Aycock

**Senate Sponsor:** Seliger

House Bill 338 amends the Agriculture Code to require a public entity, other than the Department of Agriculture (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 only a recommendation and has no legal effect in the State of Texas and that it is lawful to sell, distribute, import, or possess a plant on the list unless the TDA labels the plant as noxious or invasive on the department’s plant list. The bill provides requirements relating to the posting of the disclaimer in printed material made for public distribution to commercial or residential landscapers and requires the TDA to adopt rules requiring a public entity to include the disclaimer in an equivalent manner for publication of the entity’s list through other media.

### **House Bill 1527**

**Effective:** 9-1-11

**House Author:** Miller, Sid

**Senate Sponsor:** Uresti

House Bill 1527 amends provisions of the Agriculture Code that establish the standards of weights and measures used by the State of Texas in the inspection of weighing or measuring devices. The bill provides as an alternative to the requirement that the Department of Agriculture submit at a certain interval such standards to the National Institute of Standards and Technology (NIST) that the department submit the standards to a laboratory approved by NIST. The bill establishes that the standards are the state’s primary standards of measurement, rather than its official standards.

**House Bill 1840**  
**Effective:** 9-1-11

**House Author:** Phillips et al.  
**Senate Sponsor:** Estes

House Bill 1840 amends the Agriculture Code to create the Texas Grain Producer Indemnity Board to be the certified organization to indemnify grain producers for economic hardships in the event that a grain buyer is unable to pay a grain producer for the grain producer's grain. The bill sets out provisions relating to the composition, administration, and duties of the board.

House Bill 1840 provides for the collection of assessments by a grain buyer, the application of those assessments by the board, and the refund of assessments to a grain producer. The bill establishes procedures for a grain producer who has delivered grain to a grain buyer to initiate a claim with the board and for the board to investigate and either pay or deny a claim. The bill requires the commissioner of agriculture to conduct a referendum of grain producers to determine the maximum amount that may be assessed to a grain producer under the bill's provisions.

**House Bill 1969**  
**Effective:** 9-1-11

**House Author:** Christian  
**Senate Sponsor:** Nichols

House Bill 1969 amends the Agriculture Code to replace a reference to the excreta of an animal with a reference to animal manure as a substance that is not a commercial fertilizer subject to state laws regulating the production, processing, and sale of commercial fertilizer under a specified condition and to specify as that condition that no specific nutrient analysis claim indicates guaranteed nutrient levels, rather than the condition that no claim of essential plant nutrients is made. The bill prohibits a representative laboratory analysis conducted for purposes of fulfilling a requirement established by a federal agency or a state agency other than the Department of Agriculture from being considered a guarantee of nutrient levels for certain fertilizers or related materials or from being used to determine whether animal manure, plant remains, or mixtures of those substances are commercial fertilizers under state law.

**House Bill 1992**  
**Effective:** 9-1-11

**House Author:** Hardcastle et al.  
**Senate Sponsor:** Williams

House Bill 1992 amends the Agriculture Code to authorize the Texas Animal Health Commission by rule to set and collect a fee for any service provided by the commission for which the commission incurs a cost. This provision expires September 1, 2015.

**House Bill 2108**  
**Effective:** 6-17-11

**House Author:** Paxton et al.  
**Senate Sponsor:** Estes

House Bill 2108 amends the Agriculture Code to authorize a county clerk to accept electronic filing or rerecording of an earmark, brand, tattoo, electronic device, or other type of mark on cattle, hogs, sheep, or goats for which a recording is required by state law.

**House Bill 2994**  
**Effective:** 9-1-11

**House Author:** Miles  
**Senate Sponsor:** Estes

House Bill 2994 amends the Agriculture Code to require the board of directors of the Texas Agricultural Finance Authority to create an urban farm microenterprise support program to provide financial assistance to microenterprises in urban areas inside the boundaries of a municipality with a population of 500,000 or more that are primarily engaged in research into processes and technology related to agricultural production in an urban setting, the production or development of tools or processes for agriculture in a manner suited for an urban setting, or agricultural activities in a manner suited for an urban setting. The bill provides for the establishment and administration of the program and sets out guidelines relating to the issuance of loans under the program.

House Bill 2994 prohibits state money from being used for purposes of the urban farm microenterprise support program, but authorizes the board to accept certain gifts and grants of money for use in making loans under the program. The bill establishes the urban farm microenterprise development fund for the deposit of money relating to the program.

**House Bill 2996**  
**Effective:** Vetoed

**House Author:** Miles  
**Senate Sponsor:** Estes

House Bill 2996 amends the Agriculture Code to create the Texas Urban Agricultural Innovation Authority within the Department of Agriculture as a public authority to promote the creation and expansion of urban agricultural projects in Texas. The bill provides for the administration of the authority and exempts the authority from taxation. The bill also sets out provisions establishing the urban farmer interest rate reduction program and urban farmer grant program.

Reason Given for Veto: “House Bill 2996 would create the Texas Urban Agricultural Innovation Authority, Urban Farmer Interest Rate Reduction Program and Urban Farmer Grant Program in the Texas Department of Agriculture (TDA). At a time when state agencies have been asked to tighten their belts in response to difficult budget times, House Bill 2996 would likely necessitate an entirely new division within TDA. While the Texas Urban Agricultural Innovation Authority is not appropriated state funds, it is given broad power and would likely require substantial agency staffing.”

**House Bill 2997**  
**Effective:** Vetoed

**House Author:** Miles  
**Senate Sponsor:** Estes

House Bill 2997 amends the Agriculture Code to set out temporary provisions requiring the Department of Agriculture by rule to develop and implement an urban farming pilot program through which the department will award grants if funding for grants is available to urban farmers in Texas to establish new urban farms and expand existing urban farms. The bill also establishes the Select Committee on Urban Farming.

Reason Given for Veto: “House Bill 2997 would create the Select Committee on Urban Farming and the Urban Farming Pilot Program, to be administered by the Texas Department of Agriculture (TDA). While the goals of the pilot program are laudable, creating new unfunded programs in TDA at a time when the agency’s budget is being significantly cut is neither responsible nor acceptable. The select committee’s tasks can be addressed by the Senate and House Agriculture committees through interim studies in preparation for the next legislative session.”

**House Bill 3199**  
**Effective:** 6-17-11

**House Author:** Cain  
**Senate Sponsor:** Estes

House Bill 3199 repeals provisions of the Agriculture Code relating to the inspection, grading, and labeling of all rose plants sold or offered for sale in Texas.

**Senate Bill 199**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Hernandez Luna

Senate Bill 199 amends the Agriculture Code to authorize the Department of Agriculture to award a grant to a nonprofit organization that partners with a public elementary or middle school located in a large urban school district to establish a demonstration agricultural project or another project designed to foster an understanding and awareness of agriculture at the school. The school, with its proposal to the department for a demonstration agricultural project, is required to submit a statement that the nonprofit organization is partnering with the school. The bill repeals a provision that prohibited the department from awarding more than \$2,500 to a school in a school year in grants relating to agricultural projects in certain urban schools.

**Senate Bill 248**  
**Effective:** 9-1-11

**Senate Author:** Estes  
**House Sponsor:** Landtroop

Senate Bill 248 amends provisions of the Agriculture Code relating to business information provided to the Department of Agriculture (TDA) that is confidential and not subject to public disclosure to include financial information of a public grain warehouse operator provided to the department, with certain exceptions, and to specify the types of documents and other information that are included in the term “financial information” as used in state laws regulating public grain warehouse operators. The bill changes the circumstances under which financial information of a warehouse operator provided to the department or a contract or other agreement with a warehouse operator may be disclosed.

Senate Bill 248 changes the bond requirements for an applicant for a public grain warehouse operator’s license and excludes certain actions from the provision making a TDA action or order affecting a warehouse operator appealable. The bill changes the actions the TDA may take upon determining that the operator has not met certain requirements relating to the possession of a sufficient amount of grain at the warehouse or the conduct of a lawful inspection of the warehouse and the actions the TDA may require a warehouse operator to take after making such a determination and under other conditions. The bill establishes the period for which a suspension of a warehouse operator’s license remains in effect and removes provisions relating to a county district court hearing at which the TDA must show cause why possession should not be restored to the warehouse operator. The bill amends provisions relating to the department’s authority to deny, revoke, modify, or suspend a warehouse operator’s license.

**Senate Bill 378**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Hunter

Previous law required a request by an administrative committee that governs a pest management zone to the Department of Agriculture for an extension of the cotton stalk destruction deadline for the entire zone or any specified part of the zone, if certain conditions exist, to be made not later than 10 business days before the applicable cotton stalk destruction deadline for that zone. In addition, a request by a cotton grower for an individual extension of the deadline was required to be made to the department not later than 10 business days before the applicable pest management zone’s stalk destruction deadline. Senate Bill 378 amends the Agriculture Code to require both such types of requests to be made within the period specified by department rule.

**Senate Bill 893**  
**Effective:** 9-1-11

**Senate Author:** Whitmire  
**House Sponsor:** Hardcastle

Senate Bill 893 amends the Agriculture Code to change the types of documentation that must be provided by a distributor, supplier, wholesaler, or jobber of motor fuel when delivering to an outlet in Texas a motor fuel mixture that contains ethanol or methanol exceeding one percent by volume of the mixture. It requires those parties, on written notice from the commissioner of agriculture, to provide the commissioner with the documents evidencing the delivery of a mixture within the period specified in the notice. The bill authorizes the commissioner by rule to require such a party to maintain records relating to the purchase, sale, delivery, or distribution of motor fuel. The bill authorizes the commissioner to adopt rules requiring a dealer to provide the commissioner or authorized representative with documents relating to the posting or certification of automotive fuel ratings; to require each dealer to maintain and make available to the Department of Agriculture (TDA) certain documents and records relating to the purchase, sale, delivery, or distribution of motor fuel by the dealer; and to prescribe the manner of filing documents or records required to be kept under state law or by department rule and the time,



place, and manner of inspection of those documents or records. The bill authorizes the TDA to adopt rules as necessary to bring about uniformity between the minimum motor fuel quality and testing standards established under state law and the nationally recognized standards.

Senate Bill 893 expands the conditions under which the TDA is authorized to issue and enforce a written order to stop the sale of motor fuel and the actions the department may take if it has reason to believe that motor fuel is in violation of state law. The bill establishes a maximum penalty of \$5,000 for violating a provision of law relating to the sale and regulation of fuel mixtures. The bill repeals provisions relating to required information regarding the alcohol and fuel mixture in motor fuel as provided on a sign on a motor fuel pump and by a dealer on request and provisions relating to the administrative penalty for a violation of state laws relating to the sale and regulation of certain fuel mixtures.

**Senate Bill 1086**

**Effective:** 5-17-11

**Senate Author:** Estes

**House Sponsor:** Hardcastle

Senate Bill 1086 amends the Agriculture Code to authorize the Department of Agriculture (TDA) by rule to charge a membership fee to each participant in the economic development program maintained by the TDA for rural areas in Texas, to adopt rules as necessary to administer the program, and to revoke a participant's certificate of registration or license issued under the program if the participant fails to comply with a rule adopted by the department. The bill also authorizes the TDA to create, distribute, and provide informational materials to the public for the purpose of marketing and promoting agricultural and other products grown, processed, or produced in Texas and to take certain actions to recover the costs of administering specified agricultural activities and programs. The bill changes the types of agreements into which the TDA may enter for publication of information concerning agriculture, horticulture, or related industries and authorizes the department to collect an event fee or a royalty for certain marketing and promotional activities.

Senate Bill 1086 expands provisions relating to the authority of the TDA to sell or contract for sale promotional items for the "Go Texan" program to include the sale or contract for sale of program merchandise and amends provisions relating to the purpose of such sales or contracts and the methods of advertising and selling promotional items. The bill authorizes money received for the purpose of marketing and promoting agricultural and other products grown, processed, or produced in Texas to be appropriated only to the TDA for such marketing and promotion activities.

**Senate Bill 1356**

**Effective:** 9-1-11

**Senate Author:** Estes

**House Sponsor:** Hardcastle

Senate Bill 1356 amends the Agriculture Code to repeal provisions relating to the registration of animal tattoo marks with the Department of Public Safety.

**Senate Bill 1357**

**Effective:** 9-1-11

**Senate Author:** Estes

**House Sponsor:** Hardcastle

Senate Bill 1357 amends provisions of the Agriculture Code relating to the redemption and impoundment of estrays to include an owner or occupant of public property among the persons from whom the owner of an estray is authorized to redeem the estray and to change the conditions under which the owner is authorized to redeem an estray. The bill requires the sheriff or the sheriff's designee to proceed immediately with impounding an estray if the animal's owner does not redeem the estray not later than the fifth day after the date the owner receives notification by a justice court having jurisdiction, rather than within a reasonable time as required under previous law; removes language authorizing impoundment at the request of the property owner;

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and makes it a condition for impoundment that the sheriff or the sheriff's designee determines that the estray's owner is making a good faith effort to comply with the bill's provisions.

Senate Bill 1357 makes provisions relating to the entitlement to a redemption payment by the owner of an estray applicable to the owner or occupant of property on which an estray is found, held, or impounded, rather than limiting the entitlement to a person on whose property an estray is found, and amends provisions relating to the determination of the payment amount. The bill repeals a provision entitling the owner of an estray to remove the estray from a property if the owner of the property on which an estray is found files a petition in a justice court having jurisdiction for a determination of the amount of a redemption payment by the justice of the peace. The bill authorizes the original owner of an estray that has been sold to recover, under certain conditions, the net proceeds of the sale of the estray not later than the 180th day after the date of sale of an estray, rather than within one year after that date as provided under previous law.

**The summaries for the following bills are in the listed chapters:**

House Bill 268 - Taxes and Tax Administration

House Bill 361 - Taxes and Tax Administration

House Bill 1808 - State Government

House Bill 2810 - Taxes and Tax Administration

Senate Bill 479 - Civil Remedies and Procedures

Senate Bill 1480 - Parks and Wildlife

# Alcoholic Beverages

This chapter covers legislation on the regulation of individuals and establishments that sell, serve, manufacture, distribute, or transport alcoholic beverages. The chapter also includes legislation relating to the functions and operations of the Texas Alcoholic Beverage Commission and to penalties for alcohol-related offenses, except for offenses relating to driving while intoxicated, which are found in the **Criminal Justice** chapter. Legislation relating to local option elections on the sale of alcoholic beverages is in the **Elections** chapter.

**House Bill 11**  
**Effective:** 9-1-11

**House Author:** Cook et al.  
**Senate Sponsor:** Eltife

House Bill 11 amends the Tax Code to expand the application of provisions requiring reports to be filed with the comptroller of public accounts by persons involved in the manufacture and distribution of alcoholic beverages by extending existing reporting requirements applicable to wholesalers and distributors of beer, wine, and malt liquor and making them applicable also to brewers, manufacturers, and package store local distributors, requiring all such entities to file with the comptroller a monthly report of alcoholic beverage sales to retailers in Texas.

The bill expands the content requirement for each monthly report to include information such as separate line items for the number of units of alcoholic beverages, the individual container size and pack of each unit, the brand name, the type of beverage, the universal product code of the alcoholic beverage, and the net selling price of the alcoholic beverage. The bill retains a requirement that the report be filed electronically but authorizes the comptroller to postpone the electronic reporting requirement should it pose an undue hardship to a particular entity. The bill authorizes the comptroller to adopt rules to implement the bill's provisions.

The bill applies only to a manufacturer whose annual production of beer in Texas does not exceed 75,000 barrels and to a brewer whose annual production of malt liquor in Texas, together with the annual production of beer at the same premises by the holder of a manufacturer's license, does not exceed 75,000 barrels.

In addition to the payment of a civil or criminal penalty imposed by the comptroller for failure to file a complete report as required, the bill requires a brewer, manufacturer, wholesaler, distributor, or package store local distributor to pay the state a civil penalty of not less than \$25 or more than \$2,000 for each day a violation continues if the brewer, manufacturer, wholesaler, distributor, or package store local distributor violates these statutory provisions or a rule adopted to administer or enforce such provisions.

The bill authorizes the comptroller to verify a brewer's, manufacturer's, wholesaler's, distributor's, or package store local distributor's compliance with these provisions and to bring an action to enforce the provisions and obtain any authorized civil remedy for a violation. The bill requires the attorney general to prosecute the action on the comptroller's behalf and establishes venue for such an action in the district courts of Travis County.

The bill requires the comptroller to disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report of alcoholic beverage sales to state retailers if the person requesting the information holds a permit or license under certain provisions of the Alcoholic Beverage Code and the request relates only to information regarding the sale of a product distributed by the person making the request. Such a disclosure is not considered a disclosure of competitively sensitive, proprietary, or confidential information.

## Alcoholic Beverages

### **House Bill 1469**

**Effective:** 9-1-11

**House Author:** Hernandez Luna

**Senate Sponsor:** Gallegos

Previous law required a person applying for a beer retailer's license or a wine and beer retailer's permit held in connection with a certain type of establishment located in a county with a population of at least 1.4 million to file a surety bond with the Texas Alcoholic Beverage Commission. House Bill 1469 amends the Alcoholic Beverage Code to exempt a fraternal organization or a veterans organization from this requirement.

### **House Bill 1936**

**Effective:** 9-1-11

**House Author:** Gutierrez

**Senate Sponsor:** Lucio

Previous law established different requirements for residents and nonresidents of the state on the amount and type of alcoholic beverages that may be imported into Texas for personal consumption without an alcoholic beverage permit. House Bill 1936 amends the Alcoholic Beverage Code to make these limitations applicable to any person and to clarify the amount and type of each alcoholic beverage subject to the limitations. The bill increases from 50 cents to \$3 the administrative fee a person must pay when importing alcoholic beverages into the state. The bill also expands the provision of law authorizing a person who is relocating a household to import a personal wine collection as a part of that person's household goods to make that authorization applicable to a personal malt beverage or distilled spirit collection. The bill repeals a provision authorizing a person who purchases wine while at a winery located in Texas to ship the wine to the person's residence if the winery verifies that the person is 21 years of age or older.

### **House Bill 1952**

**Effective:** 5-28-11

**House Author:** Kuempel

**Senate Sponsor:** Eltife

House Bill 1952 amends the Alcoholic Beverage Code to authorize the Texas Alcoholic Beverage Commission (TABC), after notice and hearing, to cancel or suspend the TABC's approval of an alcoholic beverage seller training program, the TABC's certification of a trainer to teach such a program, or the TABC's certification of a seller-server if the program, trainer, or seller-server violates the Alcoholic Beverage Code or a TABC rule. The bill authorizes the TABC to give a program, trainer, or seller-server the opportunity to pay a civil penalty rather than be subject to suspension and makes specified provisions relating to the hearing or appeal of a cancellation or suspension of a permit applicable to the program approval or certification as if that approval or certification were a license or permit under the Alcoholic Beverage Code.

### **House Bill 1953**

**Effective:** 9-1-11

**House Author:** Kuempel

**Senate Sponsor:** Eltife

House Bill 1953 amends the Alcoholic Beverage Code to change the date by which an applicant for an alcoholic beverage permit or license for a location not previously licensed for the on-premises consumption of alcoholic beverages is required to prominently post an outdoor sign at the location stating that alcoholic beverages are intended to be served on the premises, the type of permit or license, and the name and business address of the applicant. The bill changes that date from not later than the 60th day before the date the application is filed to not later than the 60th day before the date the permit or license is issued.

### **House Bill 1956**

**Effective:** 9-1-11

**House Author:** Thompson

**Senate Sponsor:** Carona

Current law provides exceptions to rules applicable to an ordinary civil suit in an appeal from a cancellation, suspension, or refusal of a license or permit for the sale of alcoholic beverages, including a private club registration permit. Under previous law, one of those exceptions required



the case to be tried before a judge within 10 days from the date it is filed. House Bill 1956 amends the Alcoholic Beverage Code to extend to within 20 days of filing of the appeal the deadline by which the case must be tried before a judge.

**House Bill 1959**  
**Effective:** 9-1-11

**House Author:** Thompson  
**Senate Sponsor:** Carona

House Bill 1959 amends the Alcoholic Beverage Code to entitle an applicant for a permit or license for the sale of alcoholic beverages to a hearing before the county judge to contest the certification by the county clerk, the city secretary, or the clerk of the city in which the application is made that the location or address given in the application is not in a wet area or the refusal by one of those local officials to issue the certification.

**House Bill 2012**  
**Effective:** 9-1-11

**House Author:** Thompson  
**Senate Sponsor:** Galleges

House Bill 2012 amends the Alcoholic Beverage Code to specify, for purposes of certain prohibited dealings between a wholesaler and a retailer of alcoholic beverages, that a holder of a winery permit is a retailer when the winery permit holder purchases wine from the holder of a wholesaler's permit for resale to ultimate consumers in unbroken packages.

**House Bill 2033**  
**Effective:** 6-17-11

**House Author:** Hamilton  
**Senate Sponsor:** Eltife

House Bill 2033 amends the Tax Code to authorize a holder of a permit relating to the sale of mixed beverages, for informational purposes only, to provide that each sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to the mixed beverage tax include a separate statement clearly disclosing the amount of tax to be paid by the permittee in relation to that item. The bill prohibits the tax from being separately charged to or paid by the customer.

**House Bill 2035**  
**Effective:** 6-17-11

**House Author:** Hamilton  
**Senate Sponsor:** Jackson et al.

House Bill 2035 amends the Alcoholic Beverage Code to authorize an alcoholic beverage 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 and establishes that the alternate location is considered the distributor's or wholesaler's licensed or permitted premises, as applicable. The bill sets forth provisions governing the alternate location and establishes notice requirements for a distributor or wholesaler who temporarily operates all or part of the distributor's or wholesaler's business from the alternate location.

House Bill 2035 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. The bill provides an expiration date for a distributor's or wholesaler's authority to operate from an alternate location and sets forth provisions governing an extension of that date. The bill requires a person who transports liquor or beer to the premises of a wholesaler or distributor, as applicable, during a period of emergency, to provide to the consignee a shipping invoice containing certain specified information.

## Alcoholic Beverages

**House Bill 2582**  
**Effective:** 9-1-11

**House Author:** Murphy  
**Senate Sponsor:** Whitmire

House Bill 2582 repeals an Alcoholic Beverage Code partial exemption from the tax imposed on the first sale of beer for beer produced in Texas by a manufacturer whose annual production of beer in this state does not exceed 75,000 barrels.

**House Bill 2707**  
**Effective:** 6-17-11

**House Author:** Burnam et al.  
**Senate Sponsor:** Davis

House Bill 2707 amends the Alcoholic Beverage Code to enact Erik's Law, requiring the Texas Alcoholic Beverage Commission (TABC) or the administrator appointed by the TABC to refuse to issue an original or renewal alcoholic beverage permit authorizing on-premises consumption of alcoholic beverages, with or without a hearing, if the TABC or the administrator has reasonable grounds to believe and finds that, during the three years preceding the date the permit application was filed, an alcoholic beverage license or permit previously held by the applicant, a person who owns the premises for which the permit is sought, or an officer of a person who owns the premises for which the permit is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act, except for a permit authorizing on-premises consumption for a location that also holds a food and beverage certificate but not a late hours permit. The bill applies the same requirement to the TABC or the administrator, with or without a hearing, or the county judge, and the same exception with respect to an original or renewal distributor or retailer license authorizing on-premises consumption of alcoholic beverages.

**House Bill 3329**  
**Effective:** 9-1-11

**House Author:** Keffer et al.  
**Senate Sponsor:** Fraser

House Bill 3329 amends the Alcoholic Beverage Code to authorize the Texas Alcoholic Beverage Commission to issue a daily temporary private club permit to a nonprofit corporation for a fund-raising event for that corporation that lasts not longer than eight hours. The bill limits the issuance of such a permit to the county in which the nonprofit corporation is located and limits the number of permits a nonprofit corporation may be issued to one per calendar year.

**House Bill 3474**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Watson

House Bill 3474 amends the Alcoholic Beverage Code to exempt a certain minor who requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person from the offenses of consumption or possession of alcohol by a minor. The bill requires a judge who places on community supervision a defendant charged with purchasing alcohol for a minor or furnishing alcohol to a minor, if the defendant committed the offense at a gathering where participants were involved in alcohol abuse, to order the defendant to perform community service and attend an approved alcohol awareness program. The bill also requires the judge to order the Department of Public Safety to suspend the defendant's driver's license or permit or deny the issuance of a license or permit to the defendant for 180 days.

**Senate Bill 351**  
**Effective:** 4-21-11

**Senate Author:** Williams et al.  
**House Sponsor:** Deshotel

Senate Bill 351 amends the Alcoholic Beverage Code to increase the maximum capacity of a container of wine a person may sell to a retail dealer from 4.9 gallons to 8 gallons.

**Senate Bill 438**  
**Effective:** 6-17-11

**Senate Author:** Nelson  
**House Sponsor:** Geren

Under previous law, a winery festival permit holder was prohibited from selling wine under the permit for more than five days within a 30-day period or on more than three consecutive days at the same location. Senate Bill 438 amends the Alcoholic Beverage Code to eliminate the prohibition on a permittee selling wine for more than five days within a 30-day period and to prohibit the permittee from selling wine on more than four, rather than three, consecutive days at the same location.

**Senate Bill 799**  
**Effective:** 6-17-11

**Senate Author:** Nelson  
**House Sponsor:** Geren

Senate Bill 799 amends the Alcoholic Beverage Code to specify that the term “first sale,” for purposes of taxes imposed on certain liquor, 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.

**Senate Bill 890**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Hamilton

Senate Bill 890 amends the Alcoholic Beverage Code to require the Texas Alcoholic Beverage Commission to adopt rules relaxing statutory restrictions on certain wholesalers’ dealings with retailers to allow a wholesaler to perform cleaning and maintenance of coil connections for the dispensing of wine.

**Senate Bill 1331**  
**Effective:** 9-1-11

**Senate Author:** Watson et al.  
**House Sponsor:** Gallego

Senate Bill 1331 amends the Alcoholic Beverage Code to exempt a certain minor who requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person from the offenses of consumption or possession of alcohol by a minor. The bill requires a judge who places on community supervision a defendant charged with purchasing alcohol for a minor or furnishing alcohol to a minor, if the defendant committed the offense at a gathering where participants were involved in alcohol abuse, to order the defendant to perform community service and attend an approved alcohol awareness program. The bill also requires the judge to order the Department of Public Safety to suspend the defendant’s driver’s license or permit or deny the issuance of a license or permit to the defendant for 180 days.





## Appropriations and State Finance

This chapter includes the General Appropriations Act for the state fiscal biennium beginning September 1, 2011, and legislation on supplemental appropriations, a one-time appropriation from the Rainy Day Fund, revenue dedication, and paying claims against the state.

### **House Bill 1**

**Effective:** 9-1-11

**House Author:** Pitts

**Senate Sponsor:** Ogden

House Bill 1, the General Appropriations Act, appropriates approximately \$172.3 billion for the FY2012-FY2013 state fiscal biennium beginning September 1, 2011. That amount includes all funding sources except interagency contracts. Of the legislatively approved amount, more than \$86.9 billion, or 50.4 percent, is derived from general revenue, both dedicated and nondedicated. Another \$54.4 billion, or 31.6 percent, represents federal funding, and \$31.1 billion, or 18.0 percent, comes from other funds. (Figures and percentages do not add up due to rounding.) The \$172.3 billion budgetary total for FY2012-FY2013 represents a decrease of nearly six percent from the FY2010-FY2011 budget.

Legislative appropriations for major governmental functions and services for FY2012-FY2013 compared with appropriations for the preceding fiscal biennium are as follows: General government receives \$4.3 billion, an increase of 4.9 percent. Total funding for health and human services is \$54.2 billion, a decrease of 9.1 percent. The legislature appropriates \$75.6 billion for both public and higher education, a 0.3 percent increase. Public safety and criminal justice receives \$11.4 billion, an increase of 5.6 percent. Natural resources is funded at \$3.2 billion, a 5.9 percent decrease. Business and economic development is appropriated \$24.4 billion, an increase of 17.9 percent. Regulatory functions are funded at \$696.6 million, a decrease of 21.9 percent. The legislature is appropriated \$340 million, a decrease of 4.2 percent.

The governor vetoed approximately \$109.4 million in all funding sources from House Bill 1. The appropriations vetoed by the governor represent contingency riders or contingent appropriations for bills that either did not pass or were vetoed by the governor.

### **House Bill 4**

**Effective:** 6-16-11

**House Author:** Pitts et al.

**Senate Sponsor:** Ogden

House Bill 4 makes supplemental appropriations and reductions in appropriations, provides transfer authority and other appropriation adjustment authority, and imposes contingencies on the appropriation of funds. Appropriations from the general revenue fund and from dedicated accounts in the general revenue fund are reduced by approximately \$1.4 billion. The bill includes carryover provisions for unexpended and unencumbered balances on previous appropriations and authorizes certain increases in the caps on full-time equivalent positions for the Office of Court Administration and the Texas Education Agency for fiscal years 2012 and 2013. Appropriations are also made to certain institutions of higher education, among other state entities, for specified purposes.

### **House Bill 275**

**Effective:** 6-1-11

**House Author:** Pitts et al.

**Senate Sponsor:** Ogden

House Bill 275 appropriates \$3,117,661,120 from the economic stabilization fund to the comptroller of public accounts for the purpose of depositing that amount to the credit of the general revenue fund as money available for use during the state fiscal year ending August 31, 2011, to make expenditures previously authorized by appropriations from general revenue for the state fiscal biennium ending August 31, 2011.

**House Bill 2103**  
**Effective:** 6-17-11

**House Author:** Jackson  
**Senate Sponsor:** Carona

House Bill 2103 amends the Government Code to include a letter of credit issued by a federal loan bank among the types of security eligible for use as collateral in securing a deposit of public funds under the Public Funds Collateral Act.

**House Bill 3647**  
**Effective:** 9-1-11

**House Author:** Turner  
**Senate Sponsor:** Ogden

House Bill 3647 provides for the appropriation of funds to pay for various claims and judgments against Texas. The bill requires each claim or judgment to be verified and substantiated by the administrator of the fund or account against which the claim or judgment is to be charged and to be approved by the attorney general and the comptroller of public accounts. The bill provides a deadline of August 31, 2012, for the necessary verification, substantiation, and approval to occur. The bill authorizes and directs the comptroller, subject to the bill's provisions, to issue warrants on the state treasury to pay the claims and judgments.

**Senate Bill 1 (1st C.S.)**  
**Effective:** See below

**Senate Author:** Duncan et al.  
**House Sponsor:** Pitts

Senate Bill 1 amends the Alcoholic Beverage Code, Code of Criminal Procedure, Education Code, Election Code, Estates Code, Family Code, Government Code, Health and Safety Code, Human Resources Code, Occupations Code, Probate Code, Tax Code, Transportation Code, and Water Code to enact various changes relating to state fiscal matters.

Article 1 defers the August Foundation School Program (FSP) payments to school districts, beginning in fiscal year 2013, to after September 5 but not later than September 10 of the following fiscal year and specifies an August 25 deadline for the comptroller of public accounts to transfer an estimated amount from the state lottery account to the foundation school fund.

Article 2 establishes that an insurer, health maintenance organization, or title insurance company is not entitled to a tax credit for an examination or evaluation fee paid in calendar year 2012 or 2013. This provision expires January 1, 2014. Effective October 1, 2011, Article 3 repeals Tax Code provisions regarding state sales tax and franchise tax refunds for economic development in reinvestment zones. Article 4 extends the record retention period for tax records to a minimum of four years, or longer in certain cases, and establishes the taxpayer's burden to produce records substantiating taxpayer claims. Article 5 decreases from 18 months to one year the dormancy period for unclaimed utility deposits before they may be presumed abandoned.

Article 6 establishes the judicial and court personnel training fund as an account in the general revenue fund, rather than a fund created in the state treasury, limits the appropriation of money in the fund to the Texas Court of Criminal Appeals to the uses authorized under law, and removes requirements for the transfer of unexpended balances to the general revenue fund. Article 7 authorizes the appropriation of process server certification fees collected by the Office of Court Administration to the office for the support of regulatory programs for process servers, guardians, and court reporters. There is no Article 8.

Effective October 1, 2011, Article 9 requires a remittance of certain prepayments of motor fuel taxes in August 2013, allows a subsequent credit for the remitted tax, and delays the allocation of motor fuels taxes to their designated accounts that would occur in July or August 2013 to September 2013. Article 10 requires an additional remittance of prepayments of alcoholic beverage taxes in August 2013. Article 11 reduces the stamping allowance for affixing stamps to cigarette packages. Effective October 1, 2011, Article 12 revises the definition of "sale for resale" for purposes of the limited sales, excise, and use tax. Article 13 requires a taxpayer who pays state sales and use tax to the comptroller by electronic funds transfer and does not prepay

as provided by state law to remit an additional prepayment of 25 percent of the amount due in August 2013 and provides an offsetting credit in September 2013. The remittance provisions in Articles 9, 10, and 13 expire September 1, 2015. Effective October 1, 2011, Article 14 imposes, in addition to any other authorized penalties, a \$50 penalty for a failure to file or to timely file a required tax report, regardless of whether the person subsequently files the report or whether any taxes or fees were due. Article 14 also repeals Tax Code provisions relating to a repeated failure to file a required sales and use tax report.

Article 15 removes an Election Code provision requiring the secretary of state to deliver written notice of a voter registrar's noncompliance with certain laws and rules to the comptroller; requires the secretary of state, rather than the comptroller, to make the payments to which each registrar is entitled for services rendered; and repeals a provision authorizing the comptroller to require additional proof to substantiate certain information before issuing a warrant. Articles 16 and 17 revise certain powers and duties of the comptroller with respect to the execution of certain depository agreements and the preparation and publication of reports and materials. Article 17 repeals Government Code provisions relating to the collection and availability of information on economic development activities and Local Government Code provisions relating to a report to the comptroller by a municipal development corporation.

Article 18 amends provisions relating to the surplus lines insurance premium tax and the independently procured insurance premium tax, some contingent on the state entering a cooperative agreement, reciprocal agreement, or compact with another state for the collection or allocation of such taxes, and repeals provisions relating to the determination of the amount of taxable premiums on a policy or contract covering risks only partially located in Texas and authorizing the comptroller to establish that all premiums are considered to be on risks located in Texas under certain circumstances or for certain purposes.

Article 19 creates the oil and gas regulation and cleanup fund as an account in the general revenue fund to replace the oil-field cleanup fund, which is abolished, with all balances in the abolished fund and all current revenue streams, except penalties, transferring or accruing, as applicable, to the new fund. The bill requires the Railroad Commission of Texas to establish specific performance goals for oil and gas regulation through the appropriations process and to submit quarterly reports to the Legislative Budget Board on fund revenues and expenditures and progress toward meeting those goals. The bill expands the applicability of the pipeline safety fee and authorizes the commission to use funds other than the oil and gas regulation cleanup fund for regulation and cleanup if appropriated.

Article 20 repeals provisions relating to a contract for printing the legislature's general and special laws and instead requires the secretary of state, as soon as practicable after the closing of each legislative session, to publish and maintain electronically the bills enacted that session. Article 21 authorizes the attorney general to charge a reasonable fee for electronic filing of a document. Effective November 1, 2011, Article 22 authorizes money in the Texas preservation trust fund account to be used for operation expenses of the Texas Historical Commission and repeals provisions relating to the comptroller's management of account assets. Article 23 continues the operation of the Department of Information Resources until September 1, 2013, and clarifies both the scope of the Sunset Advisory Commission's review of the department and the purposes for which certain fee revenues may be appropriated to the department.

Article 24 requires the state bar to credit an attorney employed full-time with the office of the attorney general with meeting the bar's minimum continuing legal education requirements, with the exception of requirements for legal ethics and professional responsibility courses, and requires the office to recognize, prepare, or administer continuing legal education programs for office attorneys. These provisions expire January 1, 2014.

## Appropriations and State Finance

Article 25 increases lobby registration fees and registration renewal fees by 50 percent and adds lobbyists for 501(c)(6) organizations to the new \$150 fee category. Article 26 expands the authorized uses for money in the fund for veterans' assistance to include the analysis and investigation of data received from the federal Public Assistance Reporting Information System.

Article 27 eliminates a previous authorization for the Commission on State Emergency Communications to vote to designate a seventh regional or satellite poison control center in Harris County and instead authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the authorized use of three tobacco settlement funds to pay the principal or interest on a bond issued on behalf of the Cancer Prevention and Research Institute of Texas. Article 29 restructures the process for disposing of state surplus or salvage property.

Effective January 1, 2012, Article 30 expands the meaning of "seller" or "retailer" and clarifies the circumstances under which a retailer is considered engaged in business in Texas for purposes of provisions governing the collection of the state sales and use tax and provides for the temporary allocation of a portion of state sales tax revenues to the property tax relief fund.

Article 31 extends the potential carryforward period for a corporation's unused franchise tax credits established under former state law for certain job creation activities or for certain capital investments. Article 32 authorizes the comptroller, in providing open market purchasing services for state agency purchases, to engage a consultant to assist with a particular procurement on behalf of a state agency and to pay the consultant from the agency's cost savings.

Article 33 changes the period of the sales and use tax holiday relative to the earliest school start date. Article 34 amends Government Code provisions relating to Legislative Budget Board meetings on the development of state budgets and the publication of related documentation.

Article 35 authorizes the governor, during the state fiscal biennium beginning September 1, 2011, to transfer money from the Texas Enterprise Fund to the Texas Workforce Commission to fund the Texas Back to Work Program established under the bill's provisions. Effective January 1, 2012, Article 36 authorizes an unmarried surviving spouse of a disabled veteran who qualified for a residence homestead property tax exemption on the basis of that disability to pay the taxes due in installments. Article 37 extends the \$1 million franchise tax exemption through December 1, 2013. Articles 38, 39, and 40 set out provisions relating to longevity supplements for assistant prosecutors and the reimbursement of process server review board members and of jurors.

Article 41 requires a county with a population of 50,000 or greater to participate in the collection improvement program unless granted a waiver. Article 42 revises the size, composition, and authority of the Correctional Managed Health Care Committee and transfers its authority to enter into certain health care services contracts to the Texas Department of Criminal Justice (TDCJ). Article 43 authorizes the establishment of a homeless housing and services program administered by the Texas Department of Housing and Community Affairs in certain municipalities and authorizes the governor to transfer funds from the Texas Enterprise Fund to the department to fund the program. Article 44 makes the office of the comptroller, rather than the governor's office, the state agency for uniform grant and contract management.

Effective January 1, 2012, Article 45 requires a qualified live event promotion company and a qualified courier and logistics company to exclude payments made to certain individuals for their services from the company's total revenue for franchise tax purposes. Article 46 adds beekeeping for the purpose of pollination or for the production of human food or other tangible commercial products to the activities that qualify land for appraisal as open-space land, provided that the land used is not less than 5 or more than 20 acres. Article 47 decreases from once a year to once every five years the frequency for the mandatory reporting by certain entities to the comptroller regarding the comptroller's unclaimed property search.



Article 48 amends provisions relating to property taxation of certain stored property, in part to redefine “goods-in-transit” as tangible personal property that is stored under contract of bailment by a public warehouse operator at one or more public warehouse facilities in Texas that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property. The redefinition takes effect January 1, 2012; a provision relating to an official action to tax goods-in-transit takes effect October 1, 2011.

Articles 49 and 50 add to or revise eligibility requirements for payment of an eligible student’s advanced placement tests and for a college tuition exemption for an educational aide. Effective January 1, 2012, Article 51 amends Tax Code provisions relating to the franchise tax to redefine “retail trade” to include apparel rental activities classified as Industry 5999 or 7299 of the federal 1987 Standard Industrial Classification Manual.

Article 52 authorizes certain school districts to retain additional state aid received under certain conditions as a hold harmless for a tax rate reduction resulting from a compression of tax rates, and Article 53 requires a reduction in a school district’s additional state aid under that hold harmless in proportion to the degree to which its adopted maintenance and operations (M&O) tax rate is below its compressed tax rate, beginning with tax rates adopted for the 2009 tax year.

Article 54 reduces the membership of the Texas Guaranteed Student Loan Corporation’s board, in part by removing the comptroller as an ex officio member, and requires the governor to designate the board’s chair. Article 55 amends provisions relating to the disposition of mineral proceeds in funds established for The Texas A&M University System, the Texas State University System, the Texas Tech University System, and Texas A&M University—Kingsville. Article 56 requires the commissioner of education to reduce the amounts of the reduction of certain school districts’ entitlement amounts computed for purposes of adjusting entitlement amounts to account for taxes deposited into a tax increment fund. This requirement expires September 1, 2013.

Article 57 amends provisions relating to public school finance. Among other changes, the bill allows a district not receiving a transportation allotment or participating in a county transportation system to charge a reasonable fee for transportation services; revises a charter holder’s entitlement to FSP funding for an open-enrollment charter school; revises the formula for computing the minimum monthly salary of certain school district staff; increases the equalized wealth level to \$339,500 and the guaranteed yield to \$33.95 for districts with an M&O tax rate for the 2010 tax year at the maximum allowable tax rate; establishes a regular program allotment as a replacement for the adjusted basic allotment, with a temporary regular program adjustment factor (RPAF) to provide certain across-the-board reductions in school district funding; authorizes the use of compensatory education funds for juvenile justice alternative education programs (JJAEPs) and removes certain limitations on the expenditure of such funds on district alternative education programs; requires the State Board of Education to increase indirect cost allotments in effect for the 2010-2011 school year in proportion to the RPAF reductions; and incrementally reduces the amount of a district’s hold harmless for the loss of local tax revenue resulting from the reduction in school district property tax rates. The bill requires the establishment of a joint legislative committee to review public school finance and expresses the intent that future legislatures continue reducing hold harmless levels while increasing the basic allotment. The bill repeals, among other provisions, the \$350 per pupil cap on annual revenue increases and, effective September 1, 2017, target revenue. Certain school finance provisions that revert to prior law take effect September 1, 2015; other provisions take effect September 1, 2017. Provisions setting the RPAF at specific levels for the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 school years expire September 1, 2015.

Effective September 1, 2013, Article 58 converts the percentage cap on mixed beverage tax reimbursements from the comptroller to counties and municipalities into a minimum percentage.



Article 59 extends the permanent school fund bond guarantee program to designated charter school districts that meet financial standards adopted by the commissioner, including earning investment grade status; sets limitations on the guarantee of such bonds; and establishes the charter district bond guarantee reserve fund to pay off a defaulted bond. Effective September 28, 2011, Article 60 requires the Texas Education Agency to use a competitive procurement process to award a contract to an adult education service provider; the article requires the agency to adopt rules not later than August 31, 2012, to administer the use of a such a process.

Article 61 repeals the state virtual school network allotment and instead entitles a school district to funding for a student enrolled in a course through the virtual school network in the same manner as for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

Article 62 abolishes the Texas Department of Rural Affairs, creates the Office of Rural Affairs within the Texas Department of Agriculture, and transfers all of the abolished department's appropriations, powers, duties, employees, and performance measures to the new office. The article establishes the Texas Rural Health and Economic Development Advisory Council to review rural policies and allocations of community development block grant funds.

Article 63 extends a court's jurisdiction over a young adult in extended foster care and during a trial independence period, requires the court to hold extended foster care review hearings every six months, and authorizes a court to extend its jurisdiction past the trial independence period if the young adult receives transitional living services from the state. Article 64 changes the allocation of revenue from fees collected by the Texas Commission on Fire Protection for deposit in a special account in general revenue and rededicates certain fees to the account.

Article 65 adds provisions relating to correctional health care, including requirements for inmates to pay an annual \$100 health care services fee in lieu of a \$3 per-visit copayment and for TDCJ to make over-the-counter medications available through commissary operations and provide those medications at no cost to an indigent inmate. The bill requires TDCJ to develop and implement a training program for corrections medication aides and provides an exemption from end stage renal disease facilities licensing requirements for facilities and hospitals operated on behalf of the state that provide dialysis to individuals receiving services while confined in a facility operated by or under contract with TDCJ.

Articles 66 and 66A revise provisions relating to the transfer of a guardianship from one jurisdiction to another, including requirements for the application, a post-transfer hearing, and a determination of a forum for proceedings. Article 67 sets out powers and duties vested in the comptroller with respect to development of a habitat conservation or candidate conservation plan to promote compliance with federal law protecting endangered and candidate species and to the establishment of a habitat protection fund and a mitigation fee to support the plan.

Article 68 removes the population brackets in a provision relating to the issuance of specialty license plates for eligible golf carts required to be registered by the United States Corps of Engineers in certain counties. Article 69 repeals court costs associated with the offense of failing to secure a child passenger in a motor vehicle. Article 70 exempts a county that meets certain criteria, including having a JJAEP serving fewer than 15 students, from certain JJAEP requirements; requires a school district in such a county to provide educational services to an expelled student; and accounts for such a student in the district's FSP funding formula.

Article 71 directs the Health and Human Services Commission, if it is feasible and cost-effective, to apply for a waiver from the federal government to better leverage state and local funds and maximize the federal Medicaid matching funds by providing Medicaid benefits to individuals with chronic health conditions who meet certain eligibility requirements. Article 72 requires the Department of Public Safety to designate certain driver's license offices as temporary visitor stations; requires proof of citizenship status for an application for a personal

identification certificate or license; establishes expiration dates for licenses and certificates issued to certain noncitizens; and sets fee amounts for various issuances of licenses or certificates issued to non-U.S. citizen applicants.

Article 73 revises provisions relating to the imposition, amount, rate, and allocation of the 9-1-1 equalization surcharge. Article 74 continues the operation of the Texas Department of Housing and Community Affairs until September 1, 2013, raises from \$2 million to \$3 million the cap on its allocations of low income housing tax credits in a single application round, and revises its oversight relating to the sale and inspection of installed manufactured housing.

Article 75 authorizes the governor to designate one or more state agencies to administer Texas' allocation of federal funds provided under the community development block grant entitlement program. Article 76 adds to the information required on campaign finance reports filed with the Texas Ethics Commission, increases the threshold amount of political expenditures required to be reported, provides for the dismissal of a complaint based on certain misidentifications of a contributor, and authorizes a candidate to designate a responding agent.

Article 77 prohibits the Texas Commission on Environmental Quality from creating a groundwater conservation district in certain counties before September 1, 2015, but authorizes the charge of an annual fee to study overall groundwater consumption in such counties. There is no Article 78.

Article 79 prohibits the Teacher Retirement System of Texas from considering the salaries of personnel paid from the Education Jobs Fund as being paid from federal funds for purposes of interpreting and implementing law relating to state contributions to the retirement system. Article 79A exempts travel vouchers and supporting documentation of certain peace officers from public disclosure for 18 months following the date of travel. Agencies that pay such vouchers are required to prepare a quarterly report summarizing amounts paid for the vouchers.

Except as otherwise noted, the bill takes effect September 28, 2011.

**Senate Bill 2 (1st C.S.)**  
**Effective:** 7-19-11

**Senate Author:** Ogden  
**House Sponsor:** Pitts

Senate Bill 2 makes appropriations to several state agencies for the period beginning September 1, 2011, and ending August 31, 2013. Many of these appropriations are contingent on the enactment of legislation during the 82nd Legislature, 1st Called Session, 2011. Others provide clarification of, or direction to, appropriations made in House Bills 1 and 4, 82nd Legislature, Regular Session, 2011. The bill poses a two-year net cost to general revenue related funds of \$29.5 billion. The bill also provides for certain guidance on the allocation and expenditure of its appropriations.

The bill establishes that the several sums of money specified by the bill, or so much thereby as may be necessary, are appropriated out of any funds in the State Treasury not otherwise appropriated, or out of special funds as indicated by the bill, for the support, maintenance, or improvement of the designated agencies.

**Senate Bill 7 (1st C.S.)**  
**Effective:** See below

**Senate Author:** Nelson et al.  
**House Sponsor:** Zerwas

Senate Bill 7 amends provisions of the Government Code, Health and Safety Code, and Human Resources Code relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in Texas. The bill includes provisions relating to assessments of certain services provided under Medicaid; enrollment in Medicaid managed care for families residing in the same household; requirements for contracts between the Health and Human Services Commission and managed care organizations; identity verification for applicants of certain benefit programs; reports of abuse, neglect, and exploitation of residents

of convalescent and nursing homes, assisted living facilities, and related institutions; expansion of billing coordination and information collection activities; quality-based outcomes and payments in the Medicaid and child health plan programs; verification of immigration status of applicants for certain benefits; restrictions on awards to family planning service providers; and the establishment of the Texas Institute of Health Care Quality and Efficiency to improve health care quality, accountability, education, and cost containment in Texas by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.

Senate Bill 7 amends the Insurance Code, Civil Practice and Remedies Code, and Occupations Code relating to the operation of health care collaboratives certified by the Texas Department of Insurance to provide or arrange to provide health care services under contract with a governmental or private entity. The bill requires the Department of State Health Services (DSHS) to coordinate with hospitals to develop a statewide standardized patient risk identification system under which a patient with a specific medical risk may be identified to hospital personnel and establishes and revises provisions relating to the reporting of health care-associated infections. The bill revises provisions regarding health-related information maintained by DSHS and sets out provisions relating to the adoption of a vaccine preventable diseases policy by health care facilities.

Senate Bill 7 amends the Education Code to establish the Texas emergency and trauma care education partnership program to increase training opportunities in emergency and trauma care for doctors and registered nurses at participating graduate medical education and graduate professional nursing programs. The bill prohibits certain insurer contracts from requiring a physician or other practitioner to enter into a preferred provider contract as a condition of staff membership or privileges and establishes provisions relating to coverage of certain chiropractic services by a health insurance policy. The bill, effective July 19, 2011, establishes the provisions of the Interstate Health Care Compact and provisions relating to the Medicaid program and alternate methods of providing health services to low-income persons. The bill provides for the creation and operation of an autologous stem cell bank for certain recipients of blood and tissue components and establishes provisions relating to the use of tax revenue for abortions. Among other provisions, the bill repeals a provision added by H.B. 710, Acts of the 82nd Legislature, Regular Session, 2011, relating to the use of technology for the verification of identity and prevention of fraud in the supplemental nutritional assistance program, and a provision added by H.B. 2245, Acts of the 82nd Legislature, Regular Session, 2011, relating to a study regarding physician incentive programs to reduce hospital emergency room use for non-emergent conditions. The bill, effective September 1, 2014, repeals certain provisions of law relating to the provision of data to DSHS by a rural provider.

Except as otherwise provided, the bill makes its provisions effective September 28, 2011.

**Senate Bill 1588**

**Effective:** See below

**Senate Author:** Ogden

**House Sponsor:** Pitts

Senate Bill 1588 requires all state revenue to be deposited to the credit of the undedicated portion of the general revenue fund unless specifically exempted under the provisions of the bill. The bill provides for the abolition of certain funds, accounts, and revenue dedications created, re-created, or dedicated in the state treasury by an act of the 82nd Legislature, Regular Session, and creates, re-creates, dedicates, or re-dedicates certain of those funds, accounts, and dedications of revenue in the general revenue fund.

The bill amends the Government Code to allow the comptroller of public accounts, as directed by the legislature, to make reductions in dedicated accounts in the amounts by which estimated revenues and unobligated balances exceeded appropriations following certification of all appropriations enacted by the 82nd Legislature. The bill takes effect June 17, 2011, except that certain provisions take effect August 31, 2011, and September 1, 2011.





## Business and Commerce

This chapter covers legislation on issues relating to business and commerce generally, including business organization and regulation, business transactions, and consumer protection. This chapter also contains legislation relating to financial service providers, including legislation that regulates occupations in the financial sector. Legislation relating specifically to insurance companies is in the **Insurance** chapter, legislation on job creation is in the **Economic Development** chapter, and legislation pertaining to employers and employees is in the **Labor and Employment** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 989**

**Effective:** 9-1-11

**House Author:** Kolkhorst

**Senate Sponsor:** Hegar

House Bill 989 amends the Business & Commerce Code to make misrepresentation on an Internet website or in a print advertisement, in addition to in a telephone directory or other directory assistance database, of the geographical location of a business that derives 50 percent or more of its gross income from selling or arranging flowers a deceptive trade practice. These prohibitions do not apply to 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.

#### **House Bill 1711**

**Effective:** 9-1-11

**House Author:** Davis, John

**Senate Sponsor:** Jackson

House Bill 1711 amends the Business & Commerce Code to prohibit a disaster remediation contractor from requiring a person to make a full or partial payment under a contract before the contractor begins work and 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. The bill requires a disaster remediation contract subject to the bill's provisions to be in writing and to reference the prohibited actions. The bill makes a violation of these provisions a deceptive trade practice and prohibits a person from waiving the provisions by contract or other means.

#### **House Bill 2286**

**Effective:** 6-17-11

**House Author:** Gonzales, Veronica

**Senate Sponsor:** Hinojosa

House Bill 2286 amends the Occupations Code to require a funeral director who contracts with a customer to perform funeral directing, 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 Texas. The bill specifies that funeral directing duties related to interment or entombment services are complete when the casket is placed in a grave, crypt, or burial vault.

#### **House Bill 2468**

**Effective:** 9-1-11

**House Author:** Phillips

**Senate Sponsor:** Seliger

House Bill 2468 amends the Business & Commerce Code to require the receipt or claim ticket that an operator of certain pay-to-park or valet parking service provides to a patron to

state the service owner's name, address, and telephone number, or if no receipt or claim ticket is provided, to require the operator to prominently display the service owner's name, address, and telephone number on a sign on or near the payment booth or device. The bill imposes a civil penalty not to exceed \$200 for each violation and authorizes the attorney general or a county or district attorney to bring an action to recover the civil penalty.

**House Bill 2510**  
**Effective:** 1-1-12

**House Author:** Lavender et al.  
**Senate Sponsor:** Eltife

House Bill 2510 amends the Business & Commerce Code to establish that an incandescent light bulb that is manufactured in Texas and remains in Texas is not subject to federal law or federal regulation under the authority of the United States Congress to regulate interstate commerce.

**House Bill 2872**  
**Effective:** 6-17-11

**House Author:** Orr  
**Senate Sponsor:** Davis

House Bill 2872 amends the Transportation Code to establish that provisions prohibiting the sale of motor vehicles on consecutive days of Saturday and Sunday do not prohibit the quoting of a price for a motor home, tow truck, or towable recreational vehicle at a new motor vehicle show or exhibition.

**House Bill 3141**  
**Effective:** 9-1-12

**House Author:** Hartnett  
**Senate Sponsor:** Carona

House Bill 3141 amends provisions of the Business & Commerce Code relating to the registration and protection of trademarks, including when a mark is considered to be in use. The bill establishes conditions under which a mark is considered to be abandoned and revises the requirements for registering a mark, assigning a mark and its registration, and canceling a registration. The bill also amends provisions requiring the secretary of state by rule to establish a classification of goods and services for the convenient administration of the bill's provisions, requires the secretary of state by rule to prescribe the amount of applicable fees, and provides for the enforcement of state trademark laws.

**House Bill 3573**  
**Effective:** 9-1-11

**House Author:** King, Susan et al.  
**Senate Sponsor:** Fraser

House Bill 3573 amends the Government Code to prohibit a governmental entity from requiring, unless the individual has given written consent to the disclosure, a charitable organization, private foundation trust, split interest trust, private foundation, or grant-making organization to disclose the race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of certain specified individuals. A governmental entity is also prohibited from requiring that the governing board or officers of the charitable organization, trust, or foundation include an individual of any of those particular characteristics. The bill prohibits a governmental entity from requiring, except as a condition on the expenditure of particular funds imposed by the donor of the funds, a charitable organization, trust, or foundation to distribute its funds to or contract with a person or entity based on those characteristics of the person or entity or of the populations, locales, or communities served by the person or entity.

In addition, House Bill 3573 prohibits a governmental entity from prohibiting an individual from serving as a board member or officer of a charitable organization, trust, or foundation based on the individual's familial relationship to another board member or officer or donor or requiring the governing board or officers of the organization, trust, or foundation to include one

or more individuals who do not share a familial relationship with the board members or officers or with a donor.

**Senate Bill 249**  
**Effective:** 6-17-11

**Senate Author:** Estes  
**House Sponsor:** Orr

Senate Bill 249 amends the Finance Code to increase the membership of the Finance Commission of Texas from nine to 11 members by increasing the number of members who must be banking executives from one to two and the number of members who must be representatives of the general public from five to six. The bill requires the governor to appoint two additional members to the finance commission as soon as practicable after the bill's effective date.

**Senate Bill 488**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Patrick

Senate Bill 488 amends the Business & Commerce Code to establish the Internet Dating Safety Act. The bill requires an online dating service provider that serves residents of Texas to clearly and conspicuously disclose whether the provider conducts a criminal background check on each member and requires an online dating service provider that conducts such checks to include on the provider's Internet website certain specified statements regarding criminal background checks. The bill requires each online dating service provider serving residents of Texas to provide a safety awareness notification on the provider's Internet website that includes safety measures designed to increase awareness of safer online dating practices. The bill makes an online dating service provider who violates the bill's requirements liable to the state for a civil penalty and authorizes the attorney general to seek an injunction to prevent or restrain such a violation or bring suit to recover the civil penalty.

**Senate Bill 529**  
**Effective:** 9-1-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Hunter et al.

Senate Bill 529 amends provisions of the Occupations Code relating to regulating the relationship between motor vehicle franchise dealers, manufacturers, distributors, and representatives. The bill establishes criteria a manufacturer or distributor may consider in determining whether to approve an application filed by a dealer for the transfer of a franchise or a controlling interest in the dealership to another person. The bill requires a manufacturer, distributor, or representative that terminates or discontinues a franchise without adhering to certain notice and consent procedures or, regardless of adherence to such procedures, by discontinuing a line-make, ceasing to do business in Texas, or changing the distributor or method of distribution of its product in Texas to pay the dealer specified amounts of money on termination or discontinuation based on certain dealer costs and values. The bill requires a dealer who receives money under these circumstances to mitigate the damages by performing specified actions. The bill establishes that it is unreasonable for a manufacturer, distributor, or representative to require a dealer to construct a new dealership or to substantially change, alter, or remodel an existing dealership under certain conditions before the 10th anniversary of the date the construction of the dealership at that location was completed.

Senate Bill 529 prohibits a manufacturer, distributor, or representative from unreasonably limiting or impairing the ability of a dealer to use the dealership property as the dealer considers appropriate, controlling the use of the property after the franchise is terminated or discontinued, or at any time exercising exclusive control over the use of the property. The bill prohibits a manufacturer, distributor, or representative from treating dealers of the same line-make differently and from enforcing standards or guidelines applicable to its dealers in the sale of motor vehicles if, in the application of the standards or guidelines, the dealers are treated unfairly or inequitably.

Senate Bill 529 requires a manufacturer or distributor to pay a dealer's claim filed under a manufacturer or distributor incentive program not later than the 30th day after the date the claim is approved. The bill prohibits a manufacturer, distributor, or representative from requiring a franchised dealer to provide information regarding a customer, with specified exceptions. The bill sets out provisions relating to a property use agreement between a manufacturer, distributor, or representative and a dealer and the right of a dealer to protest the relocation of a dealership under certain conditions.

Senate Bill 529 expands the circumstances under which mediation requirements apply to the parties involved in an action brought against a manufacturer or distributor by a franchised dealer and expands the authority of a franchised dealer to institute an action under the Deceptive Trade Practices-Consumer Protection Act.

**Senate Bill 1008**

**Effective:** 6-17-11

**Senate Author:** Carona

**House Sponsor:** Orr

Senate Bill 1008 amends the Finance Code to revise the composition of the Finance Commission of Texas by requiring one member to be a licensed residential mortgage loan originator, rather than a mortgage broker.

**Senate Bill 1165**

**Effective:** 5-28-11

**Senate Author:** Carona

**House Sponsor:** Truitt

Senate Bill 1165 amends provisions of the Finance Code relating to the enforcement powers of the banking commissioner of Texas. Current law establishes the grounds for an order by the commissioner to remove a person from office or employment in a state bank or state trust company or to prohibit a controlling shareholder or other person participating in the affairs of a state bank or state trust company from further participation. The bill expands those grounds to include making, or causing to be made, false entries in the institution's records and to include an action prejudicial to the interests of the institution's creditors or shareholders as well as of the institution's depositors; makes the grounds for removal applicable as grounds for prohibiting a person from office or employment in a state bank or state trust company; and makes all such removal and prohibition orders applicable also to office, employment, and participation in any other entity chartered, registered, permitted, or licensed by the commissioner. The bill authorizes the commissioner to prescribe the duration of the order, probate the order, or impose other conditions on the order. The bill also requires each proposed prohibition or removal order and each emergency cease-and-desist, prohibition, or removal order to state the duration of the order. The bill clarifies the prohibition in a final removal or prohibition order against serving as an employee of any entity chartered or licensed by the commissioner to prohibit service specifically as an employee with financial responsibility of any other entity chartered, registered, permitted, or licensed by the commissioner and establishes a procedure by which a person who is subject to a prohibition or removal order may apply to be released from the order after the expiration of 10 years from the date of issuance.

Current law authorizes the banking commissioner to initiate an administrative penalty proceeding against a bank or state trust company, refer the matter to the attorney general for enforcement, or pursue other appropriate action if the commissioner reasonably believes that a bank, state trust company, or person has violated a final and enforceable order issued by the commissioner. Senate Bill 1165 extends that authority to allow the commissioner to take such action on the basis of a violation of applicable state law that exposed or could have exposed the bank or the bank's depositors, creditors, or shareholders to harm and to initiate an administrative penalty proceeding against a person besides a state bank or trust company. The bill revises the applicable notice requirements, sets out certain factors to be considered in determining

the amount of any penalty to be imposed, and caps the amount of the penalty imposed on an institution and on an individual. The bill authorizes the banking commissioner to release a final order imposing such an administrative penalty or information regarding the existence of the order to the public if the banking commissioner concludes that the release would enhance effective enforcement of the order.

**Senate Bill 1167**  
**Effective: 9-1-11**

**Senate Author: Carona**  
**House Sponsor: Hernandez Luna**

Senate Bill 1167 amends provisions of the Health and Safety Code relating to cemeteries and perpetual care cemetery corporations. The bill establishes the presumption that a person with the right to control the disposition of a decedent's remains is unable or unwilling to control the disposition if the person fails to make final arrangements or appoint another person to make final arrangements for the disposition before a specified date, in which case that right is terminated and passed to another person in a prescribed order of priority. The bill authorizes the installation of a lawn crypt in fewer than 10 units if the crypt is part of a private estate, establishes construction deadlines for the start and completion of a lawn crypt section in a cemetery in which undeveloped lawn crypt spaces are being sold or reserved for sale, and provides for a full refund, on request, of the amount paid for the undeveloped space on the failure to meet either deadline. The bill requires a sales contract for an undeveloped lawn crypt space to disclose certain buyer's options in the event the crypt is not constructed within the specified limits or the person to be interred in the space dies before the completion of the related lawn crypt section. The bill prohibits a perpetual care cemetery from being operated in Texas 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 showing, among other information, subscriptions and payments in cash for 100 percent of the entity's ownership or membership interests.

Senate Bill 1167 requires a corporation to hold a certificate of authority issued by the Banking Commissioner of Texas to operate a perpetual care cemetery. The bill establishes criteria that an applicant must demonstrate to the commissioner's satisfaction to qualify for a certificate of authority and establishes requirements relating to the application for and the issuance and renewal of such a certificate. The bill prohibits a transfer or assignment of a certificate of authority, requires a certificate holder to notify the Banking Department of Texas of a transfer of ownership or change of control of the certificate holder's business, and establishes a procedure for the authorized surrender of a certificate of authority under certain conditions.

Senate Bill 1167 authorizes the commissioner to examine certain books, records, and consumer complaint files of a corporation on a periodic basis, rather than annually or more often, and authorizes the commissioner to issue an order requiring restitution by a person if, after notice and opportunity for a hearing, the commissioner finds that a corporation has not ordered memorials in compliance with the deadlines established by rule. The bill authorizes, rather than requires, a trier of fact to make recommendations regarding commissioner sanctions in a case in which the trier of fact finds that a violation of an applicable statute or rule establishes a pattern of wilful disregard for such statutes or rules. The bill authorizes the commissioner to issue an order to cease and desist to a person if the commissioner finds that the person has violated state law, a commissioner's final order, or a Finance Commission of Texas rule relating to perpetual care cemeteries and the violation is not timely corrected after the person receives written notice of the violation and to issue an emergency order 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 provisions relating to perpetual care cemeteries. The bill authorizes the attorney general to seek the appointment of a receiver in conjunction with a proceeding to forfeit the right to do business in Texas brought by the attorney general. The bill



makes it an offense for a person to collect money for the purchase of a memorial and knowingly defalcate or misappropriate the funds.

**Senate Bill 1169**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Hamilton

Senate Bill 1169 amends Occupations Code provisions relating to the regulation of providers, administrators, and sellers of service contracts and identity recovery service contracts to prohibit a provider or administrator of such contracts sold or issued in Texas from contracting with or using the services of a person to perform an activity that requires registration with the Texas Department of Licensing and Regulation unless that person is appropriately registered. The bill expands the disciplinary actions available to the department, the executive director, and the Texas Commission of Licensing and Regulation for noncompliance with these regulatory provisions and expands remedies available to service contract holders and identity recovery service contract holders.

Senate Bill 1169 revises provisions relating to the funded reserve account option for meeting the financial security requirements of a provider of service contracts or identity recovery service contracts to provide that deposits to the account consist of a statutory deposit of cash, a letter of credit, or a certificate of deposit and to increase the minimum amount of the reserve account. The bill removes as options for allowable security deposits to the account a surety bond, securities, a statutory deposit of cash equivalents, and another form of security allowed under commission rule. The bill sets out procedures relating to the transition following the implementation of such financial security provisions. The bill sets out provisions relating to the distribution of provider funds held in trust in the event of a provider's bankruptcy or a similar event affecting the provider's ability to perform its obligations to its contract holders.

Senate Bill 1169 sets out provisions authorizing a provider to employ or contract for the sale or marketing of service contracts or identity recovery service contracts and relating to cancellation of a contract by a contract holder or provider. The bill prohibits false, deceptive, or misleading statements, or an omitted statement if the omission would be considered misleading, in any written material of a provider; the purchase of a service contract or identity recovery service contract as a condition of certain loans or the sale of property; and certain telemarketing calls to a consumer.

## **Business Organization and Regulation**

**House Bill 2047**  
**Effective:** 9-1-11

**House Author:** Lewis  
**Senate Sponsor:** Uresti

Under current law relating to business organizations, each filing entity and each foreign entity is required to designate and continuously maintain a registered agent on whom may be served any process, notice, or demand served on the entity. House Bill 2047 amends the Business Organizations Code to require 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, and to authorize any employee of the organization to receive service at the registered office.

**Senate Bill 17**  
**Effective:** 9-1-11

**Senate Author:** Carona et al.  
**House Sponsor:** Truitt

Senate Bill 17 amends the Finance Code to enact the Residential Mortgage Loan Servicer Registration Act to provide regulatory authority to ensure a registered residential mortgage loan

servicer's compliance with state and federal law, rules, and regulations. The bill authorizes the Finance Commission of Texas to adopt and enforce rules necessary for the purposes of or to ensure compliance with that act. The bill requires a person, with certain exceptions, to register with the savings and mortgage lending commissioner before acting as a residential mortgage loan servicer, directly or indirectly, for a residential mortgage loan secured by a lien on residential real estate in Texas; sets out registration procedures and requirements, including requirements for the filing of an application and payment of a registration fee, the filing of a surety bond in the prescribed amounts, as applicable, and renewal requirements; and establishes grounds for revocation of a registration. The bill requires a registrant or a mortgage banker that acts as a residential mortgage loan servicer to provide to the borrower of each residential mortgage loan a specified notice informing the borrower where complaints may be directed, establishes the commissioner's powers and duties with regard to investigating and resolving a complaint concerning a registrant, and authorizes the commissioner to issue a cease and desist order under certain conditions against a person who is not registered or exempt under the Residential Mortgage Loan Servicer Registration Act to enforce compliance with that act and to impose an administrative penalty of up to \$2,500 for each day of violation against a person who violates such an order. The bill also makes certain persons who service residential mortgage loans subject to registration as a mortgage banker and requires a mortgage banker that services residential mortgage loans to indicate in its registration that it acts as a residential mortgage loan servicer. The bill authorizes the commissioner or the commissioner's designee to participate in multi-state mortgage examinations as scheduled by the Conference of State Bank Supervisors Multi-State Mortgage Committee in accordance with Conference of State Bank Supervisors protocol.

**Senate Bill 323**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Elkins

Senate Bill 323 amends the Business Organizations Code to make certain provisions relating to the liability of a for-profit corporation also applicable to a limited liability company and the company's members, owners, assignees, affiliates, and subscribers. The bill provides that this applicability is subject to state laws establishing the liability of a member or manager of a limited liability company for a debt, obligation, or liability of the company and extends the meaning of certain terms in the Business Organizations Code for purposes of the application of the bill's provisions.

**Senate Bill 582**

**Effective:** 9-1-11

**Senate Author:** Harris et al.

**House Sponsor:** Lewis

Senate Bill 582 amends the Business Organizations Code to include a domestic or foreign limited liability company whose right to transact business in Texas is forfeited by the comptroller of public accounts and a corporation or limited liability company that is involuntarily terminated or whose registration is revoked by the secretary of state among the entities on which process may be served by a political subdivision of the state, or by a person acting on the political subdivision's behalf, in connection with the collection of a delinquent property tax.

Senate Bill 582 amends the Civil Practice and Remedies Code to include within the term "nonresident," with regard to a suit to collect delinquent property taxes in which the defendant is a nonresident, an individual who is not a Texas resident and a foreign corporation, foreign unincorporated association, foreign general partnership, foreign limited partnership, foreign limited liability company, foreign professional association, foreign business trust, foreign cooperative, or foreign real estate investment trust that is not required to appoint a registered agent for service of process in Texas under the provisions of the Business Organizations Code.

**Senate Bill 748**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Giddings

Senate Bill 748 amends the Business Organizations Code to make technical, clarifying, and conforming changes and to revise certain requirements relating to a merger, interest exchange, or conversion of a business organization and the winding up and termination of a domestic entity. The bill amends provisions relating to the operation of a for-profit corporation, nonprofit corporation, limited liability company, and general or limited partnership and to the management of a real estate investment trust and an unincorporated nonprofit association. The bill establishes conditions under which certain domestic and foreign entities are exempt from consideration as having failed to comply with or conform to certain Business Organizations Code provisions and provides for the reinstatement of a domestic or foreign filing entity that has been dissolved or otherwise discontinued.

**Senate Bill 1568**  
**Effective:** 9-1-11

**Senate Author:** Estes  
**House Sponsor:** Elkins

Senate Bill 1568 amends the Business Organizations Code to remove the provision prohibiting statutory provisions governing fundamental business transactions of for-profit corporations and mergers, interest exchanges, conversions, and sales of assets from being construed to limit or terminate a shareholder's standing to institute or maintain a derivative proceeding on behalf of a corporation after a merger.

## **Business Transactions**

**House Bill 2559**  
**Effective:** 9-1-11

**House Author:** Truitt  
**Senate Sponsor:** Harris

Current law governing motor vehicle installment sales (Chapter 348, Finance Code) previously applied in general to both commercial and noncommercial transactions but also included provisions that were applicable specifically only to installment sales involving commercial vehicles and heavy commercial vehicles or that exempted such sales from the applicability of other provisions. House Bill 2559 amends the Finance Code to remove those provisions exclusive to commercial transactions from the existing chapter governing motor vehicle installment sales and to add a new chapter specifically for the regulation of commercial motor vehicle installment sales. The bill repeals provisions of Chapter 348, Finance Code, relating to commercial motor vehicle installment sales and makes conforming changes to the Government Code, Occupations Code, Tax Code, Transportation Code, and Water Code.

**House Bill 2793**  
**Effective:** 9-1-11

**House Author:** Hunter  
**Senate Sponsor:** Hinojosa

House Bill 2793 amends the Business & Commerce Code to clarify that a holder or any person retained by the holder to collect the face value of a dishonored check may charge a maximum processing fee of \$30.

**House Bill 2931**  
**Effective:** 9-1-11

**House Author:** Woolley  
**Senate Sponsor:** Van de Putte

House Bill 2931 amends the Finance Code to establish provisions applicable exclusively to a debt cancellation agreement that includes insurance coverage as part of the retail buyer's responsibility to the holder. The bill requires the amount charged for such a debt cancellation

agreement made in connection with a retail installment contract to be created in good faith and be commercially reasonable, requires a debt cancellation agreement to fully disclose all provisions that permit the exclusion of a loss or damage, and lists certain applicable exclusions. The bill establishes required statements in a debt cancellation agreement and sets out provisions relating to debt cancellation agreement forms and their approval.

House Bill 2931, among additional requirements relating to a debt cancellation agreement, requires a retail seller to provide to the retail buyer a copy of the purchased debt cancellation agreement within a specified period and requires a holder to comply with the terms of a debt cancellation agreement within a specified period. The bill prohibits a retail seller from knowingly offering a debt cancellation agreement if the retail installment contract is already protected by gap insurance or if the purchase of the agreement is required for the retail buyer to obtain the extension of credit. The bill exempts an agreement offered in connection with the purchase of a commercial vehicle from the additional requirements of the bill for a debt cancellation agreement.

House Bill 2931 specifies the earliest dates on which a refund or credit of a debt cancellation agreement must be based, specifies the date on which an agreement may be canceled if total loss or theft has not occurred, requires the holder or any administrator of the agreement to refund or credit the entire debt cancellation agreement fee on cancellation, and prohibits a retail buyer from receiving any benefits after an agreement has been canceled. The bill provides the applicable actions by a holder if a computation by the administrator of a waived balance is not correct.

**House Bill 2991**  
**Effective:** 9-1-11

**House Author:** Deshotel  
**Senate Sponsor:** Carona

House Bill 2991 amends the Business & Commerce Code to expand the list of commercial transactions that bear a reasonable relation to a particular jurisdiction by including a transaction in which all or part of the subject matter is related to the governing documents or internal affairs of an entity formed under the laws of that jurisdiction. Also included among such commercial transactions is a transaction in which all or part of the subject matter is a loan or other extension of credit that meets specified criteria, 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. A transaction qualified as bearing a reasonable relation to a particular jurisdiction based on a substantial part of the negotiations occurring in that jurisdiction and an agreement relating to the transaction being signed in that jurisdiction by a party to the transaction also qualifies as bearing a reasonable relation to a particular jurisdiction if a substantial part of the negotiations relating to the transaction occurred from that jurisdiction. The bill specifies that a transaction bearing a reasonable relation to a particular jurisdiction at the time the parties enter into the transaction continues to bear a reasonable relation to that jurisdiction regardless of any subsequent changes or other actions relating to the transaction.

**House Bill 3079**  
**Effective:** 9-1-11

**House Author:** Darby  
**Senate Sponsor:** Deuell

House Bill 3079 amends the Business & Commerce Code to enact the Fair Practices of Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act, relating to dealer agreements regarding the purchase and sale of certain equipment or machinery used for agricultural, construction, industrial, mining, outdoor power, forestry, and landscaping purposes, and repeal a chapter of the code relating to farm, industrial, off-road construction, forestry harvesting, and outdoor power equipment dealer agreements. The bill makes void any provision in a dealer agreement that purports to elect the application of a law of another state instead of the law of Texas and any provision that requires a dealer to pay attorney's fees incurred

## Business and Commerce

by the supplier. The bill provides for the sale, transfer, or ownership of a dealership, sets out notice requirements for a party terminating a dealer agreement, and prohibits such termination without good cause. The bill specifies the conditions under which good cause exists and sets out provisions governing termination of a single-line dealer agreement and an agreement other than a single-line dealer agreement.

House Bill 3079 sets out provisions relating to a warranty claim submitted by a dealer to the supplier, a supplier's warranty reimbursement policies and procedures, terms for reimbursement, prohibited activity on the part of a supplier relating to the delivery, sale, and return of equipment, the repurchase of a dealer's inventory, and obligations following a cancellation or nonrenewal of a dealer's agreement. The bill authorizes a dealer, if a supplier violates any provision of the act, to bring an action against the supplier for damages sustained by the dealer as a consequence of the supplier's violation and sets out provisions governing related actions and remedies.

**House Bill 3125**  
**Effective:** Vetoed

**House Author:** Thompson  
**Senate Sponsor:** Patrick

House Bill 3125 amends the Business & Commerce Code to require a promoter and an artist to comply with the terms of a contract regarding the distribution of recording revenue or event proceeds between the promoter and the artist for the artist's performance at a live entertainment event, and to agree to secure permission for the recording of the event in writing before it is recorded.

Reason Given for Veto: "House Bill 3125 would require promoters and artists to comply with the terms of a contract for the distribution of recording revenue or event proceeds for a performance at a live entertainment event. The promoter and artist also would be required to agree to and secure permission in writing for the recording of a live entertainment event before it is recorded.

"It is unnecessary to enact legislation to require two private parties to comply with a contract that the parties have freely entered into themselves. Existing contract law more aptly applies to such agreements, and in the event of a contractual dispute, there are more appropriate forums to resolve disagreements between the parties. Furthermore, this bill ambiguously places its requirements among criminal offenses and penalties."

**Senate Bill 782**  
**Effective:** 7-1-13

**Senate Author:** Carona  
**House Sponsor:** Deshotel

Senate Bill 782 modernizes and revises the uniform law on secured transactions contained in the Business & Commerce Code. The bill amends provisions relating to the perfection and priority of security interests, the rights of third parties, the filing of financing statements, and the enforcement of a mortgage by a secured party after default, and adopts new and updated terminology.

## Financial Services

**House Bill 558**  
**Effective:** 9-1-11

**House Author:** Deshotel  
**Senate Sponsor:** Carona

House Bill 558 amends the Finance Code to require the Finance Commission of Texas to adopt rules governing requests by title insurance companies for payoff information from mortgage servicers related to home loans and the provision of that information, including rules prescribing a standard payoff statement form that must be used by mortgage servicers to provide those payoff statements. The bill requires the finance commission to prescribe a standard payoff statement form and requires a mortgage servicer who receives a request for a payoff statement



from a title insurance company to deliver the requested payoff statement within a time specified by the finance commission, which must allow the mortgage servicer at least seven business days after the date the request is received to deliver the payoff statement. The bill prohibits a mortgage servicer or mortgagee, with certain exceptions, from demanding that a mortgagor pay an amount in excess of the payoff amount specified in the payoff statement.

**House Bill 2342**  
**Effective:** 9-1-11

**House Author:** Truitt  
**Senate Sponsor:** Watson

House Bill 2342 amends The Securities Act to add to the acts that are subject to the assessment of an administrative fine by the securities commissioner. The bill increases the limit on the amount of an administrative fine assessed by the commissioner, together with the amount of a certain civil penalty, to 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 as 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.

House Bill 2342, in a provision specifying penalties for certain felony offenses under The Securities Act, classifies such offenses as third degree felonies, second degree felonies, first degree felonies, or state jail felonies, as applicable, and removes provisions describing the various penalties for a conviction of such offenses. Among other provisions, the bill authorizes an enhancement of a conviction of such offenses for repeat or habitual offenders.

House Bill 2342 makes the attorney general's authorization to seek equitable relief for a victim of fraudulent practice subject to a request of the commissioner and authorizes the attorney general to seek the disgorgement of any economic benefit gained by a defendant through an act or practice that violates The Securities Act or for which The Securities Act provides the commissioner or the attorney general with a remedy. The bill authorizes the court to order the defendant to deliver to each victim of such an act or practice the amount of money or the property that the defendant obtained from the victim.

House Bill 2342 authorizes the attorney general, on the request of the commissioner, to seek a civil penalty and a certain administrative fine in a specified amount for a violation of The Securities Act and enhances the penalty if the violation was committed against a person 65 years of age or older. The bill authorizes the attorney general to recover reasonable costs and expenses incurred by the attorney general in bringing such an action.

**House Bill 2592**  
**Effective:** 1-1-12

**House Author:** Truitt et al.  
**Senate Sponsor:** Carona

House Bill 2592 amends the Finance Code to require a credit access business to post in a conspicuous location in its place of business and on any business Internet website it maintains a schedule of all fees to be charged for services performed in connection with payday loans or auto title loans; directory information for the Office of Consumer Credit Commissioner, including the number for the office's consumer helpline; and an advisory notice that such loans are not intended to meet long-term needs and that refinancing rather than paying the debt in full when due will incur additional charges. The bill requires a credit access business, before performing loan services, to provide to a consumer a disclosure adopted by the Finance Commission of Texas regarding the interest, fees, and annual percentage rates to be charged on a payday or auto title loan relative to the interest, fees, and annual percentage rates charged for alternative forms of consumer debt and other information relating to the effect of renewing or refinancing such payday or auto title loans for periods of varying duration and the typical payment patterns in the repayment of such loans. A credit access business that obtains or assists a consumer in obtaining an auto title loan also must provide a notice warning of the consequences of a default on such a



loan. The bill authorizes the consumer credit commissioner to assess an administrative penalty against a credit access business that knowingly or wilfully violates the law.

**House Bill 2594**  
**Effective:** 1-1-12

**House Author:** Truitt et al.  
**Senate Sponsor:** Carona et al.

House Bill 2594 amends the Finance Code to set out provisions relating to the licensing and regulation of a credit access business, which is defined as a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan. The bill authorizes a credit access business to assess fees for its services as agreed to between the parties and prohibits a fee from being charged unless it is disclosed.

House Bill 2594 requires a credit services organization to obtain a license for each location at which the organization operates as a credit access business in performing the services described above and sets out provisions relating to the application for and issuance of that license. The bill requires the filing of a surety bond in a specified amount, if so required by the consumer credit commissioner, or the maintenance of a surety account held in trust in lieu of the surety bond filing; requires the commissioner to conduct an investigation of the application before issuing a license; requires the commissioner to approve an application and issue a license on a finding that an applicant meets certain financial criteria and sets deadlines for the approval or denial of the application; provides for the disposition of the application and investigation fees on denial of the application; requires each license to state the name of the license holder and the address associated with the license; requires a display of the license at the place of business stated on the license; requires the license holder to maintain minimum net assets as specified; requires payment of an annual license fee and provides for the expiration of the license on failure to pay that fee; establishes grounds for a license suspension or revocation; requires the filing of a decision regarding a suspended or revoked license and the associated evidence in the commissioner's public records; provides for the reinstatement of a suspended license under certain conditions and for the issuance of a new license after revocation; provides for the voluntary surrender of a license; establishes the effect of a license being suspended, revoked, or surrendered; requires a license holder to notify the commissioner before moving an office from the location specified on the license; requires commissioner approval for the transfer or assignment of a license; vests the duty to administer these licensing provisions in the office of the consumer credit commissioner; prohibits providing or advertising the applicable services without a license; establishes restrictions on off-site advertising; requires compliance with federal laws and regulations applicable to the extension of consumer credit to military borrowers; makes certain debt collection practices that are violations of other state law violations of these licensing provisions; and requires the filing of a credit access business's quarterly report with the consumer credit commissioner and the payment by each credit access business or license holder of an annual assessment for the Texas Financial Education Endowment to improve consumer credit, financial education, and asset-building opportunities in Texas. The bill authorizes the Finance Commission of Texas to adopt rules for purposes relating to the licensing and regulation of credit access businesses.

House Bill 2594 requires the consumer credit commissioner to assess an administrative penalty against a credit access business that knowingly and wilfully violates or causes a violation of statutory provisions relating to credit services organizations or a rule adopted under those provisions.

**House Bill 2615**  
**Effective:** 9-1-11

**House Author:** Veasey  
**Senate Sponsor:** Rodriguez

House Bill 2615 amends the Finance Code to require the consumer credit commissioner to collect information on programs and other publicly available resources that focus on teaching financial literacy, compile and periodically update the information into a one-page document, and post the document on the Internet website of the Office of Consumer Credit Commissioner not later than December 1, 2011. The bill requires a health and human services agency to ensure that the document is offered to persons who receive services from the agency at locations where such persons frequently access the agency's services.

**House Bill 3453**  
**Effective:** 9-1-11

**House Author:** Anchia  
**Senate Sponsor:** Eltife

House Bill 3453 amends the Finance Code, Government Code, and Occupations Code to make changes in provisions relating to the regulatory authority of the consumer credit commissioner and to fees and interest charged in connection with consumer credit transactions.

House Bill 3453 amends the Finance Code to authorize the commissioner, to ensure enforcement of law and minimization of regulatory burdens, to share information, including criminal history or confidential information, relating to a license holder, registrant, applicant, or other person investigated or examined under the commissioner's authority with specified public entities under certain circumstances. The bill caps the ceiling on a retail charge agreement without a merchant discount at 21 percent and authorizes a retail charge agreement, rather than an agreement that implements the market competitive rate ceiling, to provide for the payment of charges, fees, court costs, and disbursements. The bill also specifies the information and documents associated with a retail seller of motor vehicles that are confidential and not subject to disclosure and lists circumstances under which the commissioner is authorized to disclose such information and documents. The bill authorizes the commissioner or the commissioner's representative to disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to certain applicable persons. The bill authorizes the commissioner to assess an administrative penalty against a person who violates a Tax Code provision relating to the transfer of a tax lien.

House Bill 3453 amends the Government Code to include the commissioner in a list of entities to whom a criminal justice agency is authorized to disclose criminal history record information that is the subject of an order of nondisclosure.

House Bill 3453 amends the Occupations Code to make provisions of law permitting the licensing of certain applicants with prior criminal convictions inapplicable to an applicant for a license that would allow the applicant to provide financial services in an industry regulated by the consumer credit commissioner.

**Senate Bill 141**  
**Effective:** 9-1-11

**Senate Author:** Eltife et al.  
**House Sponsor:** Anchia

Senate Bill 141 amends provisions of the Finance Code relating to debt management services and the regulation of debt management service providers. Current law authorizes the consumer credit commissioner to suspend or revoke a provider's registration if the commissioner finds that the provider has failed to disburse money to creditors on behalf of a consumer within a reasonable time. The bill clarifies that such authority applies only if the provider has received money from or on behalf of the consumer for disbursement to a creditor under a debt management plan that provides for regular periodic payments to creditors in full repayment of the principal amount of the debts. The bill sets the amount of bond that a provider must file with an initial or renewal

registration application at \$50,000 if the provider does not receive and hold money paid by or on behalf of a consumer for disbursement to the consumer's creditors.

Current law prohibits a provider from enrolling a consumer in a debt management plan unless, in addition to certain other conditions, the provider has a reasonable expectation that each of the consumer's creditors listed as a participating creditor in the plan will accept payment of the consumer's debts as provided in the initial plan and the provider has prepared, for all creditors identified either by the consumer or through additional investigation, a list of the creditors that the provider reasonably expects to participate in the plan. Senate Bill 141 makes those conditions of enrollment applicable only if the proposed debt management plan does not provide for a reduction of principal as a concession. The bill also makes the requirement for each debt services agreement to list each participating creditor to which payments will be made, the amount owed to each creditor, and the schedule of payments the consumer must make applicable only if the proposed plan does not provide for a reduction of principal as a concession.

Senate Bill 141 requires a provider, if the provider or a consumer cancels a debt management service agreement, to return to the consumer immediately any money held in trust by the provider for the consumer's benefit and 65 percent of any portion of the account set-up fee received by the provider that has not been credited against settlement fees. The bill establishes restrictions on the imposition of fees or other charges by a debt management service provider, sets caps on the amount of the permitted fees based on the services provided under the type of debt management plan in which a consumer may be enrolled, and requires the finance commissioner to compute and publish the dollar amounts of permitted fees or other charges by debt service management providers in amounts different from the amounts of fees or other charges specified in statute to reflect inflation. The bill requires the commissioner to adopt a base year, to adjust the dollar amounts each year if the change from the base year in the index used to measure inflation is at least 10 percent, and to notify registered providers of any change in dollar amounts made to reflect inflation and make that information available to the public.

**Senate Bill 767**  
**Effective:** 9-1-11

**Senate Author:** Ellis  
**House Sponsor:** Alvarado

Senate Bill 767 amends the Business & Commerce Code to expand the regulation of certain residential foreclosure consulting services. The bill requires each contract for the purchase of the services of a foreclosure consultant by a homeowner of a residence in foreclosure to be in writing, dated, and signed by each homeowner and the foreclosure consultant. The bill requires a foreclosure consultant, before entering into a contract with such a homeowner for the purchase of the services of a foreclosure consultant, to provide the homeowner written notice containing language specified by the bill.

The bill identifies the foreclosure consultants to whom its provisions apply and sets out certain restrictions on compensation or consideration for foreclosure consulting services. The bill also describes certain prohibited conduct, provides for the retention of records, and makes it a Class C misdemeanor to violate the bill's provisions.

**Senate Bill 1124**  
**Effective:** See below

**Senate Author:** Carona  
**House Sponsor:** Truitt et al.

Senate Bill 1124, pursuant to the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009, amends Finance Code provisions relating to the licensing and regulation of certain persons involved in residential mortgage lending. Among other provisions, the bill also:

- renames the Mortgage Broker License Act as the Residential Mortgage Loan Company and Residential Mortgage Loan Originator Licensing and Registration Act (the act);

- makes the licensing and registration procedures and other provisions established by previous law applicable instead to residential mortgage loan originators and residential mortgage loan companies, as applicable;
- adjusts the membership of the mortgage industry advisory committee;
- prohibits an exclusive agent of a registered financial services company 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;
- establishes a list of individuals and entities who are exempt from application of the Residential Mortgage Loan Company and Residential Mortgage Loan Originator Licensing and Registration Act and authorizes the finance commission to grant certain exemptions from the residential mortgage loan originator licensing requirements;
- establishes the qualifications and requirements for a mortgage company license, a credit union subsidiary organization license, and an auxiliary mortgage loan activity company license, each of which authorizes the holder to act as a residential mortgage loan originator on residential real estate located in Texas;
- establishes the qualifications and requirements for an independent contractor loan processor or underwriter company license;
- establishes the qualifications and requirements for the issuance of a financial services company registration and financial services company exclusive agent license;
- revises provisions relating to the term of validity, imposition of fees, renewal, and reinstatement of a license issued under the act;
- establishes office location requirements for a residential mortgage loan company;
- revises the reporting requirements for each licensed residential mortgage loan company or licensed residential mortgage loan originator; and
- increases the cap on the amount of an administrative penalty for each violation for a license holder under the act and authorizes the savings and mortgage lending commissioner to rescind or vacate any revocation order previously issued under that act.

Senate Bill 1124 requires the savings and mortgage lending commissioner to establish, administer, and maintain one recovery fund for the purposes of reimbursing residential mortgage loan applicants for actual damages incurred because of acts committed by licensed residential mortgage loan originators when the act was committed and requires an application for a residential mortgage loan originator license to be accompanied by a recovery fund fee. The bill authorizes the commissioner to revoke or suspend a license issued under both the act and the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act on proof that the commissioner has made a payment from the recovery fund of any amount toward satisfaction of a claim against a licensed residential mortgage loan originator. The bill authorizes the commissioner to seek to collect from the residential mortgage loan originator the amount paid from the fund on behalf of the residential mortgage loan originator and certain other costs and interest, to be deposited to the credit of the recovery fund.

Senate Bill 1124 revises the registration requirements for a mortgage banker, specifies that the registration of a mortgage banker is valid on approval of the commissioner and may be denied if the commissioner determines that the mortgage banker does not meet those requirements, and establishes reinstatement and annual registration renewal requirements and procedures. The bill requires a mortgage banker that is a residential mortgage loan originator to include a

specified disclosure statement regarding complaints and recovery fund claims to a residential mortgage loan applicant with an application for a residential mortgage loan and requires the finance commission by rule to adopt a standard form to be used by the mortgage banker. The bill prohibits an employee of a mortgage banker from acting in the capacity of a residential mortgage loan originator unless the employee is, among other requirements, sponsored by a registered mortgage banker, revises the eligibility requirements for an employee of a mortgage banker to be eligible for licensure as a residential mortgage loan originator, and requires a mortgage banker employee who is a residential mortgage loan originator to notify the commissioner of a change of sponsorship. The bill also requires each mortgage banker to file a mortgage call report as frequently as required by the Nationwide Mortgage Licensing System and Registry, increases the cap on the penalty amount for a violation under the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, and authorizes the commissioner to rescind or vacate any cease and desist order previously issued under that act.

Senate Bill 1124 expands the list of entities that are exempt from the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 and authorizes the finance commission to grant an exemption from the licensing requirements of that act to certain entities administering the Texas HOME Investment Partnerships program. The bill also exempts from that act certain individuals who, in any 12-consecutive-month period, originate five or fewer closed residential mortgage loans exclusively for a single federally chartered depository institution. Instead, such an individual is required to enroll as a financial exclusive agent with the Department of Savings and Mortgage Lending until the time any registration with the Nationwide Mortgage Licensing System and Registry is required for that individual and a suitable category is created for that registration. The bill requires an individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years to retake the preclicensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act. The bill takes effect September 1, 2011, except for provisions relating to the requirement that certain individuals enroll as a financial exclusive agent with the Department of Savings and Mortgage Lending, which take effect November 1, 2011.

**The summaries for the following bills are in the listed chapters:**

- House Bill 397 - Economic Development
- House Bill 2098 - Health and Medical Occupations
- House Bill 3174 - Civil Remedies and Procedures
- Senate Bill 776 - Taxes and Tax Administration
- Senate Bill 1353 - Occupational Regulation



## Civil Remedies and Procedures

This chapter covers legislation relating to civil indemnifications, immunities, judgments, liabilities, and lawsuits and the rules and standards governing the adjudication of civil litigation. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 274**  
**Effective:** 9-1-11

**House Author:** Creighton et al.  
**Senate Sponsor:** Huffman

House Bill 274 amends the Government Code to require the Texas Supreme Court to adopt rules providing for the dismissal of causes of action, except for actions under the Family Code, that have no basis in law or fact on motion and without evidence. The bill requires the supreme court to adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy does not exceed \$100,000 and requires those rules to address the need for lowering discovery costs and expediting civil actions. The bill prohibits the rules from conflicting with the Family Code, the Property Code, the Tax Code, or certain provisions of the Civil Practice and Remedies Code relating to medical liability.

House Bill 274 amends the Civil Practice and Remedies Code to require a court that hears a civil proceeding, on a motion to dismiss, to award costs and reasonable and necessary attorney's fees to the prevailing party, except in specified actions. Previous law authorized a district court, a county court at law, or county court to issue a written order for interlocutory appeal in a civil action not otherwise appealable under certain conditions. House Bill 274 instead authorizes a trial court in a civil action that is not brought under the Family Code, on a party's motion or on the court's own initiative, to permit, under the same conditions, an appeal from an order that is not appealable. The bill authorizes an appellate court to accept such an appeal if the appealing party files by a specified deadline an explanation of why the appeal is warranted. An accepted appeal is governed by the procedures in the Texas Rules of Appellate Procedure for pursuing an accelerated appeal.

Current law establishes that provisions relating to the settlement of claims are inapplicable to certain legal actions. House Bill 274 adds an action filed in a small claims court to the list of actions that are not subject to those settlement provisions. Previous law provided a formula for determining litigation costs that may be awarded. House Bill 274 prohibits the litigation costs that may be awarded to any party from being greater than the total amount that the claimant recovers or would recover before adding an award of litigation costs in favor of the claimant or subtracting as an offset an award of litigation costs in favor of the defendant. The bill also prohibits a defendant from designating a person as a responsible third party with respect to a claimant's cause of action after the applicable limitations period on the cause of action has expired with respect to the responsible third party if the defendant has failed to comply with any obligations to timely disclose that the person may be designated as a responsible third party under the Texas Rules of Civil Procedure. The bill repeals a provision allowing a claimant who is not barred by limitations from seeking to join a responsible third party even though such a joinder would otherwise be barred by limitations.

**House Bill 289**  
**Effective:** 9-1-11

**House Author:** Jackson et al.  
**Senate Sponsor:** Nelson

House Bill 289 amends the Civil Practice and Remedies Code to add employment of a minor at a sexually oriented business, trafficking of persons, sexual conduct or performance by a child, and employment harmful to a child to the list of activities that constitute maintaining a common nuisance.



**House Bill 345**  
**Effective:** 9-1-11

**House Author:** Kleinschmidt  
**Senate Sponsor:** Wentworth

House Bill 345 amends the Local Government Code provision relating to limitations on awards in an adjudication brought against a local governmental entity for breach of contract. Under current law, the total amount of money that may be awarded includes interest as allowed by law. The bill clarifies that such interest includes interest calculated under Government Code provisions relating to disputed payments for goods and services.

**House Bill 942**  
**Effective:** 9-1-11

**House Author:** Dukes et al.  
**Senate Sponsor:** Gallegos

Under current law, many governmental entities are exempted from bond and security requirements in a civil suit. House Bill 942 amends the Civil Practice and Remedies Code to exempt school districts from the requirement to give security for court costs or appeal bond.

**House Bill 962**  
**Effective:** 1-1-12

**House Author:** Hartnett  
**Senate Sponsor:** Rodriguez

House Bill 962 amends the Civil Practice and Remedies Code to add provisions relating to rules regarding return of service. The bill requires the supreme court to adopt rules of civil procedure requiring a person who serves process to complete a return of service and specifies required and authorized elements of the rules. The bill requires a certified or otherwise authorized process server to sign the return of service under penalty of perjury, specifies that the return of service is not required to be verified, and provides that a person who falsifies a return of service may be prosecuted for tampering with a government document. In provisions relating to jurisdiction over nonresident motor vehicle operators and failed substituted service, the bill amends requirements for returns of service to remove the requirement that the return of service be endorsed or attached to the original process. It also removes the requirement that the return of service be signed and sworn to in the presence of a notary public and instead requires the return of service to be signed under penalty of perjury.

**House Bill 1381**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 1381 amends the Civil Practice and Remedies Code to authorize citation or other civil process to be served on a person confined in a facility operated by or under contract with the Texas Department of Criminal Justice by serving a person designated as an agent for service of civil process. The bill requires the warden of a facility to designate an employee at the facility to serve as an agent for service of process on inmates confined in the facility and requires the designated employee to promptly deliver to the appropriate inmate any civil process served on the employee.

**House Bill 1614**  
**Effective:** 9-1-11

**House Author:** Gooden et al.  
**Senate Sponsor:** Deuell

House Bill 1614 amends the Government Code to provide for process server certification fees. The bill authorizes the process server review board to recommend fees to be charged for process server certification and renewal, requires the supreme court to approve the fees, and authorizes the Office of Court Administration (OCA) to collect the fees. The bill requires a fee to be prorated if the certification is issued or renewed for a term that is less than the certification period. The bill requires fees collected under the bill to be sent to the comptroller of public accounts for deposit to the credit of the general revenue fund and authorizes the fees deposited to be appropriated only to OCA for purposes relating to process server certification.

**House Bill 1622**  
**Effective:** 9-1-11

**House Author:** Menendez  
**Senate Sponsor:** Wentworth

House Bill 1622 amends the Civil Practice and Remedies Code to expand the graffiti offenses that are encompassed in the definition of “gang activity” for purposes of statutes relating to membership in a criminal street gang by removing from the definition the specified minimum amount of pecuniary loss resulting from the graffiti offense and the specified locations where the offense must occur. The bill allows a court to order a trial date that is not within the 90-day window established by statute for a trial on the merits of an injunctive order relating to gang activities that constitute a public nuisance.

**House Bill 2096**  
**Effective:** 6-17-11

**House Author:** Thompson  
**Senate Sponsor:** Ellis

House Bill 2096 amends the Health and Safety Code to require a petition for a writ of habeas corpus in mental health cases to be filed in the court of appeals for the county in which the order is entered.

**House Bill 2471**  
**Effective:** 9-1-11

**House Author:** Phillips  
**Senate Sponsor:** Deuell

House Bill 2471 amends the Civil Practice and Remedies Code to provide that a person who renders or obtains medical care or treatment for a nonlivestock animal that is injured or in distress because of an emergency, abandoned, running at large, or stray is not liable for civil damages for an injury to the animal resulting from an act or omission in rendering treatment if specified conditions are met. The bill also provides that an animal control agency or its employee who takes into custody and cares for a nonlivestock animal that is abandoned, running at large, or stray is not liable for civil damages for an injury to the animal resulting from an act or omission in caring for the animal if certain conditions are met.

**House Bill 2973**  
**Effective:** 6-17-11

**House Author:** Hunter et al.  
**Senate Sponsor:** Ellis

House Bill 2973 amends the Civil Practice and Remedies Code to authorize a party to a legal action that is based on, relates to, or is in response to the party’s exercise of the right of free speech, right of petition, or right of association, to file a motion to dismiss the legal action. The bill establishes procedures relating to a motion to dismiss under this provision and exempts certain legal actions.

**House Bill 3174**  
**Effective:** 6-17-11

**House Author:** Madden et al.  
**Senate Sponsor:** Harris

House Bill 3174 amends The Securities Act to entitle a party against whom recognition or enforcement of a foreign country judgment is sought, prior to a court’s recognition or enforcement of that judgment, to de novo review by a court in Texas to determine whether a party, its successors, assigns, agents, or representatives seeking recognition or enforcement of the judgment have violated state law. The bill makes these provisions applicable to a foreign country judgment involving a contract or agreement involving a sale or investment that imposes an obligation of indemnification or liquidated damages on a Texas resident. The bill establishes procedures for determining whether there is a sufficient ground for nonrecognition of the foreign country judgment.

**House Bill 3674**  
**Effective:** 9-1-11

**House Author:** Eiland  
**Senate Sponsor:** Duncan

House Bill 3674 amends Civil Practice and Remedies Code provisions relating to unsworn declarations. The bill revises the form for an unsworn declaration made by an inmate and prescribes a new form for an unsworn declaration made by a person other than an inmate.

**Senate Bill 43**  
**Effective:** 6-17-11

**Senate Author:** Zaffirini  
**House Sponsor:** Raymond

Senate Bill 43 amends the Civil Practice and Remedies Code to clarify that the civil liability of an employer or former employer of a mental health services provider or former patient injured as a result of the provider's sexual exploitation of the patient or former patient, based on the employer or former employer knowing or having reason to know that the provider engaged in sexual exploitation and failing to take certain actions, applies to sexual exploitation of any patient, rather than solely the sexual exploitation of the patient or former patient involved in the current cause of action.

**Senate Bill 115**  
**Effective:** 4-21-11

**Senate Author:** Uresti et al.  
**House Sponsor:** Gallego

Senate Bill 115 amends the Civil Practice and Remedies Code to limit the liability of space flight entities, providing exceptions to this limitation for specified injuries. The bill defines a number of terms relating to space flight in this context and sets out provisions relating to an agreement and warning statement a space flight participant is required to sign before participating in the activity.

**Senate Bill 428**  
**Effective:** 5-17-11

**Senate Author:** Huffman  
**House Sponsor:** Thompson

Previous law required a court clerk to mail notice of the filing of a foreign judgment to the judgment debtor. Senate Bill 428 amends the Civil Practice and Remedies Code to require the judgment creditor or the judgment creditor's attorney to mail the notice.

**Senate Bill 479**  
**Effective:** 6-17-11

**Senate Author:** Estes  
**House Sponsor:** Miller, Sid

Senate Bill 479 amends the Civil Practice and Remedies Code to extend the limitation on liability, formerly applicable only to equine activities and livestock shows, to include farm animal activities and livestock shows.

**Senate Bill 766**  
**Effective:** 9-1-11

**Senate Author:** Estes et al.  
**House Sponsor:** Isaac

Senate Bill 766 amends the Civil Practice and Remedies Code to prohibit a governmental unit from bringing suit against a sport shooting range, the owners or operators of a sport shooting range, or the owners of real property on which a sport shooting range is operated for the lawful discharge of firearms on the range, with certain exceptions. The bill provides limitations on a civil action brought against a sport shooting range and the recovery of damages and provides for the serving of expert reports in such a suit.

Senate Bill 766 amends the Local Government Code to prohibit a municipality from regulating the discharge of a firearm at a sport shooting range or from regulating the hours of operation of a sport shooting range, with certain limitations. The bill prohibits a county from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing,

or registration of firearms, ammunition, or firearm supplies, or relating to the discharge of a firearm at a sport shooting range, with certain exceptions.

**Senate Bill 1160**  
**Effective:** 5-20-11

**Senate Author:** Seliger  
**House Sponsor:** Jackson

Senate Bill 1160 amends the Civil Practice and Remedies Code to specify that an owner, lessee, or occupant of land does not owe a duty of care to a trespasser on the land and is not liable for any injury to a trespasser on the land, except that an owner, lessee, or occupant owes a duty to refrain from injuring a trespasser wilfully, wantonly, or through gross negligence. The bill creates an exception to this limitation on liability for injury to a child caused by a highly dangerous artificial condition on the land under specified conditions.

Previous law established a limitation on liability of a landowner for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who entered the landowner's property with or without the landowner's permission, regardless of whether the damage occurs on the landowner's property. Senate Bill 1160 extends and broadens this limitation to include any damage or injury to any person or property that arises from the actions of a peace officer or federal law enforcement officer when the officer enters or causes another person to enter the agricultural land with or without the permission of the owner, lessee, or occupant. The bill further applies this limitation on liability to any damage or injury to any person or property that arises from the actions of an individual who, because of the actions of a peace officer or federal law enforcement officer, enters or causes another person to enter the agricultural land without the appropriate permission.

**Senate Bill 1271**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Perry

Senate Bill 1271 amends the Civil Practice and Remedies Code to expand the uses of alternative dispute resolution to include resolving disputes among individuals, entities, and units of government, rather than among only individuals. The bill removes the qualification limiting a county commissioners court to establishing an alternative dispute resolution system for the resolution of only citizen disputes.

**Senate Bill 1545**  
**Effective:** 9-1-11

**Senate Author:** Patrick et al.  
**House Sponsor:** Woolley

Previous law, under certain conditions, granted immunity from civil liability for any act or omission resulting in the death of or injury to a patient to a volunteer health care practitioner conducting a medical screening or physical examination of that patient for the purpose of certifying the patient's eligibility to participate in a school-sponsored extracurricular or sporting activity. Senate Bill 1545 amends the Civil Practice and Remedies Code to extend that grant of immunity instead to a volunteer health care practitioner who conducts a physical examination or medical screening of a patient for the purpose of determining the physical health and fitness of the patient to participate in a school-sponsored extracurricular or sporting activity.

**Senate Bill 1560**  
**Effective:** 6-17-11

**Senate Author:** Ellis  
**House Sponsor:** Taylor, Larry

Senate Bill 1560 amends the Civil Practice and Remedies Code, in provisions relating to governmental liability in a tort claim, to redefine "emergency service organization" to include a local emergency management or homeland security organization.

**Senate Bill 1716**

**Effective:** 9-1-11

**Senate Author:** Duncan

**House Sponsor:** Fletcher

Senate Bill 1716 amends the Government Code to make any contract for legal services, rather than a contingent fee contract for legal services, voidable by the client if it is procured as a result of conduct violating state law or rules of the Texas Disciplinary Rules of Professional Conduct regarding barratry by attorneys or other persons. The bill authorizes an attorney who was paid or owed fees or expenses under a contract voided under provisions relating to a contract for legal services to recover fees and expenses, under certain conditions, based on a quantum meruit theory if the client does not prove that the attorney committed barratry or had actual knowledge, before undertaking the representation, that the contract was procured as a result of barratry by another person. The bill creates a civil liability for prohibited barratry and sets out the procedures for an action brought under this provision.

**Senate Bill 1846**

**Effective:** 5-9-11

**Senate Author:** Lucio

**House Sponsor:** Lewis

Senate Bill 1846 amends the Civil Practice and Remedies Code to authorize liability insurance coverage obtained by a charitable organization to be provided by, in addition to existing options, a plan providing for self-insured retention that the organization has fully paid or establishes to a court that it is capable of fully and immediately paying, a Lloyd's plan, or an indemnity policy to which all requirements for payment have been or will be met. Coverage amounts are inclusive for those added options. The bill redefines "charitable organization" to include a church.

**The summaries for the following bills are in the listed chapters:**

- House Bill 613 - Criminal Justice
- Senate Bill 791 - State Government
- Senate Bill 918 - Insurance

# Corrections

This chapter covers legislation relating to correctional and rehabilitation facilities, jails, incarcerated individuals, community supervision, parole, and sex offender registration. Legislation relating to correctional officer compensation and employment issues is in the **Public Officials and Employees** chapter, and legislation relating to juvenile correctional and rehabilitation facilities, services, and probation is in the **Juvenile Justice** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 200**

**Effective:** 9-1-11

**House Author:** Parker

**Senate Sponsor:** Whitmire

House Bill 200 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to notify the United States Social Security Administration by mail and electronically of the release or discharge of a certain prisoner who was receiving specified federal benefits before confinement in a state correctional facility and to provide the prisoner a copy of that notice on release or discharge. The bill requires the use of e-mail or other electronic communication by TDCJ and the pardons and paroles division of TDCJ in providing certain notices regarding the release or proposed release of certain inmates given to certain courts and law enforcement agencies.

### **House Bill 1128**

**Effective:** 9-1-11

**House Author:** Menendez

**Senate Sponsor:** Van de Putte

House Bill 1128 amends the Health and Safety Code to authorize an adult surrogate who meets certain criteria to consent to medical treatment on behalf of an adult inmate of a county or municipal jail if the inmate is comatose, incapacitated, or otherwise mentally or physically incapable of communication and establishes the maximum period of time for which the surrogate may consent to medical treatment on behalf of the inmate, after which only the patient or the patient's appointed guardian may consent to medical treatment. The bill prohibits the surrogate decision-maker from also consenting to psychotropic medication, involuntary inpatient mental health services, or psychiatric services calculated to restore competency to stand trial. The bill requires the attending physician of an adult inmate described above who is in need of medical treatment to describe in the patient's medical record the patient's inability to communicate and the proposed medical treatment.

### **House Bill 1566**

**Effective:** 6-17-11

**House Author:** Coleman

**Senate Sponsor:** Gallegos

House Bill 1566 amends the Local Government Code to authorize 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.

### **House Bill 1908**

**Effective:** 6-17-11

**House Author:** Madden

**Senate Sponsor:** Whitmire

House Bill 1908 amends the Education Code to make a physician who provides health care services to persons committed to or confined in a secure correctional facility operated by or under contract with the Texas Youth Commission or any division of the Texas Department of Criminal Justice eligible to receive student loan repayment assistance from the Texas Higher



Education Coordinating Board, if the physician meets other eligibility requirements. The bill limits the grants paid to such a physician to the first 10 physicians who establish eligibility for those grants each year.

House Bill 1908 amends the Government Code to authorize 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 correctional managed health care purposes and authorizes the repayment assistance to be applied to any student loan received through any lender for education at a public or accredited private institution of higher education in the United States. The bill prohibits a physician from receiving loan repayment assistance from both the committee and the coordinating board and requires the coordinating board and the committee to begin providing the repayment assistance not later than January 1, 2012.

**House Bill 2354**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 2354 amends the Code of Criminal Procedure to make provisions relating to the installation and use of a pen register, an ESN reader, a trap and trace device, a mobile tracking device, or similar equipment in a correctional facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ) apply to the office of inspector general of TDCJ in the same manner that the provisions currently apply to certain law enforcement agencies.

**House Bill 2649**  
**Effective:** 9-1-11

**House Author:** Allen  
**Senate Sponsor:** Ellis

House Bill 2649 amends the Code of Criminal Procedure to require the Texas Department of Criminal Justice, not later than the 30th day before the date on which a defendant confined in a state jail facility will have served 80 percent of the defendant's sentence, to report to the sentencing court the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program and to authorize a judge to credit additional time against the sentence for each day a defendant actually served in a state jail facility while diligently participating in such a program.

**Senate Bill 166**  
**Effective:** 9-1-11

**Senate Author:** Shapiro  
**House Sponsor:** Madden et al.

Senate Bill 166 amends the Government Code to create the Office of Violent Sex Offender Management as a state agency and transfers to the office the functions of the Council on Sex Offender Treatment that relate to the sex offender civil commitment program. The bill sets out provisions relating to the transfer of the program, provides that the office is administratively attached to the Department of State Health Services (DSHS), and makes the office subject to the Texas Sunset Act. The office is required to prepare and make publicly available information of public interest describing its functions and complaint procedures and is required to submit a biennial report concerning the operation of the office to the governor, lieutenant governor, and speaker of the house of representatives.

Senate Bill 166 amends the Health and Safety Code to revise the composition of the multidisciplinary team jointly established by the executive director of the Texas Department of Criminal Justice and the commissioner of DSHS to review available records of a potential predator set to be released from confinement and the requirements imposed on a person by a judge before the judge enters an order directing the person's outpatient civil commitment. The bill raises the cap on the annual compensation a treatment provider is authorized to receive for providing a treatment plan for a civilly committed sexually violent predator. The bill requires

the office to enter into appropriate memoranda of understanding with local law enforcement authorities, in addition to the Department of Public Safety, for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person. The bill removes a provision regarding the council-provided supervision or tracking service required for a civilly committed sexually violent predator residing in Dallas, Harris, or Tarrant County. The bill removes a specified prohibition against housing a committed person for any period in a mental health facility, state school, or community center.

Senate Bill 166 requires a correctional facility, secure correctional facility, or secure detention facility to notify in writing the case manager of a person who has been civilly committed as a sexually violent predator and who is detained or confined in such a facility as a result of violating a commitment requirement or other state law of the anticipated date and time of the person's release not later than the day preceding the date the facility releases the person.

**Senate Bill 1687**

**Effective:** 9-1-11

**Senate Author:** Ellis

**House Sponsor:** Coleman

Senate Bill 1687 amends the Government Code to require each jail under the jurisdiction of the Commission on Jail Standards, on or before the fifth day of each month, to submit to the commission a report containing the number of licensed jailers who left employment at the jail during the previous month.

**Senate Bill 1698**

**Effective:** 9-1-11

**Senate Author:** Williams

**House Sponsor:** Callegari

Current law requires each county to submit a monthly report to the Commission on Jail Standards that includes, among other information, the number of prisoners confined in the county jail, classified on the basis of a specified list of categories. Senate Bill 1698 amends the Government Code to add to the list of categories prisoners for whom an immigration detainer has been issued by United States Immigration and Customs Enforcement and to require the report to include the total cost to the county during the preceding month of housing such prisoners. The bill also removes from the list of categories prisoners who are known to be pregnant.

## **Community Supervision, Parole, and Sex Offender Registration**

**House Bill 1103**

**Effective:** 9-1-11

**House Author:** Lucio III et al.

**Senate Sponsor:** Ellis

House Bill 1103 amends the Code of Criminal Procedure to require a judge who grants community supervision to a person convicted of certain offenses involving animal cruelty to require the person to attend a responsible pet owner course sponsored by a municipal animal shelter that receives federal, state, county, or municipal funds and that serves the county in which the court is located.

**House Bill 1205**

**Effective:** 9-1-11

**House Author:** Turner et al.

**Senate Sponsor:** Ellis

House Bill 1205 amends provisions of the Code of Criminal Procedure relating to notification procedures for reducing or terminating a period of community supervision. Additionally, the bill entitles a certain defendant who is granted community supervision to receive any combination of time credits toward the completion of the supervision period and establishes specific time credits for a defendant who earns certain certificates, diplomas, or degrees, fully pays court costs, fines, attorney's fees, and restitution, or successfully completes a certain treatment or rehabilitation

program. The bill requires a defendant's supervision officer to notify the court when a defendant's accrued time credits allow or require the court to conduct a review for reduction or termination of community supervision and authorizes a court to order time credits forfeited under certain circumstances.

**House Bill 1770**  
**Effective:** 6-17-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 1770 amends the Government Code to make the authorization for the Texas Department of Criminal Justice (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 and 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. The bill requires the temporary post-release housing, in addition to meeting other requirements, to be in a structure that existed on June 1, 2009, as a multifamily residence or as a motel to which the hotel occupancy tax applies but authorizes TDCJ to issue payment for a structure that does not meet that requirement if notice and a hearing on the matter are provided. The bill provides an alternate cap on the amount of payment TDCJ may issue for temporary post-release housing and removes specific criteria required to be addressed by the TDCJ executive director's rules adopted to implement the temporary housing. The bill requires the annual submission of the TDCJ report including 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. The bill applies only to an inmate who is eligible for release on parole or to mandatory supervision on or after September 1, 2011, or who is released on parole or to mandatory supervision on or after that date.

**House Bill 2734**  
**Effective:** 9-1-11

**House Author:** Madden et al.  
**Senate Sponsor:** Williams

House Bill 2734 amends the Government Code to require a parole panel to require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement leave the United States as soon as possible after release and not unlawfully reenter or return to the United States in violation of federal law. The determination by a parole panel or a designated agent of the Board of Pardons and Paroles that a releasee has violated one of those conditions, and the confirmation of the violation with a certain law enforcement officer, is considered to be a sufficient hearing to revoke the parole or mandatory supervision without further hearing or determination, except if the releasee requests a hearing to consider mitigating circumstances.

**House Bill 2735**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Hinojosa

House Bill 2735 amends the Government Code to require the pardons and paroles division of the Texas Department of Criminal Justice, instead of issuing a warrant for the return of certain paroled or released persons to the applicable institution, to issue to the person a summons to appear for a hearing before a parole panel or a designated agent of the Board of Pardons and Paroles if the person is charged only with committing an administrative violation of release within a specified period, is not serving a sentence for and has not been previously convicted of certain offenses, and is eligible under state law to receive a summons to appear for such a hearing.

**House Bill 3691**  
**Effective:** 6-17-11**House Author:** Gallego  
**Senate Sponsor:** Carona

House Bill 3691 amends the Government Code to authorize community supervision and corrections department programs and services in a judicial district without an established community supervision and corrections department to be provided through a contract with a community supervision and corrections department established for another judicial district. The bill requires the Texas Board of Criminal Justice to adopt rules allowing departments to contract with one another for that purpose and for services or facilities. The bill adds the director of a community supervision and corrections department or the director's designee to the members of which a community justice council should consist.

House Bill 3691 requires a community supervision and corrections department's community justice plan to include, among other items, a description of the programs and services the department provides or intends to provide and an outline of its projected and programmatic budgetary needs. The bill requires the community justice assistance division of the Texas Department of Criminal Justice (TDCJ) to prepare a report containing a detailed summary of the programs and services provided by departments, sets out the required contents of the report, and requires the division to submit the report to the board and TDCJ's executive director. The bill requires the board to require TDCJ to submit each legislative appropriations request, accompanied by the division's most recent report, to the board for approval before submission to the Legislative Budget Board (LBB), requires TDCJ to include the information in that report with each legislative appropriations request submitted to LBB, and requires the division to submit the report to LBB not later than the date TDCJ is required to submit its legislative appropriations request to LBB.

In addition to submitting a community justice plan, a community supervision and corrections department or a regional partnership of departments is required to submit a commitment reduction plan to the community justice division by a specified date. The bill sets out the required contents of a commitment reduction plan and other related criteria and the circumstances under which the division may award incentive payments to a department or regional partnership of departments, the purposes for which the departments may use such funds, and other requirements relating to the funds.

**Senate Bill 198**  
**Effective:** 9-1-11**Senate Author:** West  
**House Sponsor:** Smith, Todd

Senate Bill 198 amends the Code of Criminal Procedure to change the ages of the defendant and victim or intended victim that trigger the requirements that a judge in a trial of certain sexual offenses and a judge who places a defendant charged with a certain sexual offense on deferred adjudication community supervision make an affirmative finding regarding an age-based offense and enter or file, as applicable, the finding in the judgment in the case. The bill revises the sexual offenses to which those requirements apply. Among other provisions, the bill changes the time at which a certain eligible young adult sex offender for whom a court has entered an affirmative finding regarding an age-based offense may petition the court for an order exempting the person from sex offender registration and revises the sexual offenses for which certain defendants may be exempt from registration. The bill authorizes a court hearing a petition for an order exempting a person from sex offender registration to consider certain victim testimony, the relationship between the victim and petitioner, and certain other evidence and revises the circumstances under which the court may issue the order.

**Senate Bill 880**  
**Effective:** 9-1-11

**Senate Author:** Whitmire  
**House Sponsor:** Madden

Senate Bill 880 amends the Government Code to expand the programs that a community supervision and corrections department is authorized to operate to include programs for the supervision of a person released on bail, a person subject to certain court orders or whose compliance with those orders must be verified, and a person ordered by a court to submit to the supervision of, or to receive services from, the department. The bill authorizes a department program to include any reasonable conditions related to the purpose of the program, rather than only authorizing a program to include testing for controlled substances. The bill increases from \$40 to \$60 the monthly maximum administrative fee a department is authorized to assess on an individual who participates in a department program.

**Senate Bill 1055**  
**Effective:** 9-1-11

**Senate Author:** Carona et al.  
**House Sponsor:** Madden et al.

Senate Bill 1055 amends the Government Code to require the community justice assistance division of the Texas Department of Criminal Justice (TDCJ) to prepare and submit to specified entities a report that contains a detailed summary of the programs and services provided by community supervision and corrections departments as described in each community justice plan submitted to the division by a department or county. The bill requires the report to include all financial information relating to the programs and services described in each community justice plan and information concerning the amount of state aid and funding that is not state aid used to support each program or service provided by a department. The bill requires the Texas Board of Criminal Justice to consider the division's most recent summary report in deciding whether to approve a TDCJ legislative appropriations request.

Senate Bill 1055 includes among the information required to be in a community justice council's community justice plan a description of the programs and services a community supervision and corrections 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 both provides and intends to provide, and changes the date by which a council is required to submit the report to the community justice assistance division.

Senate Bill 1055 authorizes a community supervision and corrections department or a regional partnership of departments to submit a commitment reduction plan to the community justice assistance division by a certain date. The bill authorizes a commitment reduction plan to contain a request for additional state funding and requires the plan to contain, among other information, a target number by which the county or counties served by the department or regional partnership will reduce the number of individuals committed from the applicable counties to TDCJ, other than individuals committed for offenses for which a judge is prohibited from ordering community supervision; a calculation of the savings to the state resulting from such a reduction; an explanation of the programs and services to be provided by using an additional lump sum awarded by the division; and a pledge to repay the state a certain percentage of the lump sum. The bill authorizes the division, after reviewing a commitment reduction plan and determining that the plan is feasible and would achieve desirable outcomes, to award to the department or regional partnership a one-time lump-sum payment and certain incentive payments. The division is required to deduct a specified amount from future state aid paid to a department after a lump-sum or incentive payment is awarded and not repaid. The bill expands the membership of a community justice council to include the director of a community supervision and corrections department or the director's designee.



**The summaries for the following bills are in the listed chapters:**

House Bill 1567 - Local Government

House Bill 2119 - Juvenile Justice

House Bill 2124 - Criminal Justice

House Bill 3474 - Alcoholic Beverages

Senate Bill 953 - Criminal Justice

Senate Bill 1331 - Alcoholic Beverages



## Courts

This chapter covers legislation on the jurisdiction and administration of municipal, county, district, and appellate courts. This chapter also includes legislation relating to juries and to the duties of judges and court personnel, while legislation on compensation and employment issues of such personnel is in the **Public Officials and Employees** chapter. Legislation relating to judicial retirement benefits is in the **Public Retirement Systems** chapter, and legislation on county commissioners courts is in the **Local Government** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 27**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Ellis

House Bill 27 amends the Code of Criminal Procedure to require a court, a justice of the peace, or a judge of a municipal court to allow a defendant to pay a fine and costs imposed in a misdemeanor case in specified portions at designated intervals, if it is determined that the defendant is unable to immediately pay the fine and costs.

**House Bill 79 (1st C.S.)**  
**Effective:** See below

**House Author:** Lewis et al.  
**Senate Sponsor:** Duncan

House Bill 79 amends provisions of the Government Code, Property Code, Local Government Code, Civil Practice and Remedies Code, Code of Criminal Procedure, Penal Code, and Family Code to revise and update provisions relating to fiscal and other matters necessary for implementation of the judiciary budget and relating to the operation and administration of the courts in the judicial branch of state government and the practice and procedures in those courts. The bill revises and sets out provisions relating to appellate courts, district courts, statutory county courts, justice and small claims courts, associate judges, associate judges for juvenile matters, and court administration. The provisions relating to small claims, Texas Supreme Court rules defining cases that constitute small claims, and rules of civil procedure applicable to small claims cases are effective May 1, 2013.

House Bill 79 sets out provisions relating to grant programs for court system enhancements, child protection, and procedures for appealing an order designating a person as a vexatious litigant. The Office of Court Administration of the Texas Judicial System is required to study and report on the overlapping jurisdiction of the district courts and statutory county courts in civil cases in which the amount in controversy is more than \$200,000.

House Bill 79 revises provisions relating to a suit affecting the parent-child relationship in regard to extended jurisdiction over a young adult who has exited the foster care system. The bill exempts a person appointed and serving as an associate judge under provisions relating to the parent-child relationship and the suit affecting the parent-child relationship from certain provisions of the Penal Code prohibiting a person from carrying a weapon. The bill makes these provisions relating to family law matters effective September 28, 2011. The bill revises provisions relating to inmate litigation in certain actions brought by an inmate in certain courts in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate. The bill updates provisions relating to court costs and to the composition of the Rockwall County Juvenile Board. Except as otherwise provided, House Bill 79 is effective January 1, 2012.

**House Bill 627**  
**Effective:** 6-17-11

**House Author:** Woolley  
**Senate Sponsor:** Gallegos

Previous law set a fee of \$1 for a certified copy of each page or part of a page of a record, judgment, order, pleading, or paper on file or of record in a district clerk's office, including

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certificate and seal. House Bill 627 amends the Government Code to change this fee to an amount not to exceed \$1.

**House Bill 734**  
**Effective:** 9-1-11

**House Author:** Patrick et al.  
**Senate Sponsor:** Nelson

Current law grants a constitutional county court in a county that has a population of two million or more original jurisdiction over truancy cases and authorizes the county judge in such a county to appoint one or more part-time or full-time magistrates to hear truancy cases. House Bill 734 amends the Government Code to lower that minimum county population threshold to 1.75 million.

House Bill 734 amends the Education Code and the Family Code to make conforming changes.

**House Bill 984**  
**Effective:** 5-19-11

**House Author:** Truitt  
**Senate Sponsor:** Harris

House Bill 984 amends the Government Code and the Code of Criminal Procedure to authorize a municipality to enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose. The bill makes this provision applicable to certain criminal cases arising under municipal ordinances or a resolution, rule, or order of a joint board operating an airport and to cases arising from offenses related to the seizure of cruelly treated animals or the failure to attend school.

**House Bill 994**  
**Effective:** 5-27-11

**House Author:** Castro  
**Senate Sponsor:** Zaffirini

House Bill 994 amends the Government Code to authorize a judge in Bexar County to refer to a criminal law magistrate in the county a proceeding involving a plea of nolo contendere or a plea of guilty 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. The bill authorizes a criminal law magistrate in Bexar County to whom a case is referred, except as limited by an order of referral, to accept a plea of guilty or 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, rather than only a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony offenses.

**House Bill 1048**  
**Effective:** 9-1-11

**House Author:** Cain  
**Senate Sponsor:** Eltife

House Bill 1048 amends the Government Code to change the terms of the 102nd District Court in Red River County to begin on the first Mondays in January and July, consistent with the beginning of the terms of that court in Bowie County.

**House Bill 1314**  
**Effective:** 6-17-11

**House Author:** Raymond  
**Senate Sponsor:** Zaffirini

House Bill 1314 amends the Government Code to change the days on which the terms of the 111th District Court in Webb County begin to the first Mondays in January, April, July, and October and to specify that each term continues until the court disposes of its business. The bill establishes that the 111th District Court has concurrent jurisdiction with the other district courts in

Webb County. Previous law provided that tax suits in Webb County were assigned and docketed by the 49th District Court and that all cases involving family violence, all cases under the Family Code, and all cases under the Health and Safety Code were assigned and docketed in the 406th District Court. House Bill 1314 provides that the clerk of the district courts in Webb County files all civil cases. The bill also provides that all civil cases that are not assigned and docketed in a district court based on the types of cases the court gives preference to under applicable law are assigned and docketed at random by the district clerk. The bill authorizes a criminal complaint to be presented to the grand jury of any district court in Webb County and a resulting indictment to be returned to any other district court in Webb County with the appropriate jurisdiction.

**House Bill 1559**  
**Effective:** 5-30-11

**House Author:** Davis, Sarah et al.  
**Senate Sponsor:** Huffman

House Bill 1559 amends the Government Code to prohibit a court in Texas from destroying a court document filed with, otherwise presented to, or produced by a court in Texas before January 1, 1951, and to require the Texas State Library and Archives Commission to adopt rules for the retention, storage, and destruction of those documents.

**House Bill 1771**  
**Effective:** 6-17-11

**House Author:** Madden  
**Senate Sponsor:** Harris

House Bill 1771 amends the Government Code to require the governor to establish the Specialty Courts Advisory Council within the criminal justice division of the governor's office to evaluate applications for grant funding for specialty courts in Texas and make funding recommendations to the division. The bill requires the governor to appoint the seven-member council not later than February 1, 2012.

**House Bill 1830**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Harris

Current law requires an associate judge of a statutory probate court to provide the parties participating in a hearing notice of the judge's report to a referring court. House Bill 1830 amends the Government Code to include electronic mail among the authorized methods of providing that notice and to establish that there is a rebuttable presumption that the notice is received on the date stated on a printout evidencing submission of the electronic mail message.

**House Bill 1889**  
**Effective:** 1-1-12

**House Author:** Burkett  
**Senate Sponsor:** Deuell

House Bill 1889 amends the Government Code to create municipal courts of record in the City of Mesquite. The bill specifies the duties of the presiding judge to temporarily assign or substitute judges for the expeditious disposition of business in the courts and to adopt court rules. The bill requires the city manager to appoint a municipal court administrator to serve as the clerk of the municipal courts of record and specifies the duties and authority of the municipal court administrator, including the duty to appoint the court reporter.

**House Bill 1897**  
**Effective:** 9-1-11

**House Author:** Flynn  
**Senate Sponsor:** Deuell

House Bill 1897 amends Government Code provisions relating to the jurisdiction of, the number of jurors in, and the clerk serving the County Court at Law of Van Zandt County. The bill adds guardianship matters to the concurrent jurisdiction of the Van Zandt County Court at Law. Previous law provided that the district clerk serves as the clerk of a county court at law in matters of concurrent jurisdiction with the district court. The bill instead provides that the district



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clerk will serve as the clerk of a county court at law only in family court matters and proceedings. The bill also requires the jury to be composed of six members if a jury trial is requested in a case that is in a county court at law's jurisdiction, unless the constitution requires a 12-member jury.

**House Bill 2132**  
**Effective:** 6-17-11

**House Author:** Reynolds  
**Senate Sponsor:** Hegar

House Bill 2132 amends the Government Code to authorize a county judge in a county that has a population of more than 585,000 and is contiguous to a county with a population of at least four million to appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of state law relating to failure to attend school and to a parent contributing to a child's nonattendance of school. The bill sets out provisions relating to such a magistrate's employment, powers, and duties.

**House Bill 2310**  
**Effective:** 9-1-11

**House Author:** Miller, Doug  
**Senate Sponsor:** Wentworth

Previous law required the judges of the district courts of the 22nd Judicial District, composed of Comal, Hays, and Caldwell Counties, to each appoint a bailiff. House Bill 2310 amends the Government Code to authorize the local administrative judge of the district courts in those counties to appoint bailiffs, subject to the approval of a majority of the district judges of those courts. The bill includes provisions relating to removing a bailiff, limiting each county to two bailiffs unless the funding for the additional bailiffs is approved by the applicable commissioners court, and setting an appointed bailiff's salary. The bill also removes the bailiffs of the district courts in the 22nd Judicial District from certain provisions of law relating to residency and age qualifications, an oath of office, and deputizing a bailiff.

**House Bill 2330**  
**Effective:** 9-1-11

**House Author:** King, Phil  
**Senate Sponsor:** Estes

House Bill 2330 amends Government Code provisions relating to the statutory county courts in Wise County. The bill adds a second county court at law in Wise County and allows both courts to sit in Decatur or at another location determined by the judge and approved by the commissioners court. Under current law, a county court at law has concurrent jurisdiction with the district court in civil cases in which the amount in controversy exceeds \$500, but does not exceed \$100,000, excluding interest and attorney's fees. The bill increases the maximum amount in controversy to \$200,000.

House Bill 2330 requires a regular judge in a county court at law, in addition to the qualifications specified in statute, to have the qualifications of a district judge set out in the Texas Constitution. The bill also applies the laws governing the drawing, selection, service, and pay of jurors for county courts to a county court at law and specifies the number of jurors in certain cases. Further, the bill 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 judges of district courts transfer cases.

**House Bill 2425**  
**Effective:** 6-17-11

**House Author:** Thompson  
**Senate Sponsor:** Hegar

House Bill 2425 amends the Government Code to require a court, in an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a Texas statute in which the attorney general is not involved, to serve notice of the constitutional question on the attorney general and to prohibit a court from entering a final judgment holding a Texas statute unconstitutional before the 45th day after the date the notice is served. The bill

provides that a court's failure to file or serve such notice does not deprive the court of jurisdiction or forfeit a timely filed claim or defense based on the constitutional challenge. These provisions and the state's intervention in litigation in response to the notice do not constitute a waiver of sovereign immunity.

**House Bill 2935**  
**Effective:** 10-1-11

**House Author:** Castro  
**Senate Sponsor:** Zaffirini

House Bill 2935 amends the Government Code to authorize a full-time Bexar County criminal law magistrate, with the approval of the commissioners court, to appoint an official court reporter to serve that magistrate.

**House Bill 2936**  
**Effective:** 9-1-11

**House Author:** Castro  
**Senate Sponsor:** Zaffirini

House Bill 2936 amends Government Code provisions relating to the 37th Judicial District, which is composed of Bexar County, to make them applicable to eight additional Bexar County district courts. The bill makes changes to certain court terms and to the types of cases to which certain courts in the 37th Judicial District are required to give preference.

**House Bill 3475**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** West

House Bill 3475 amends the Government Code to add provisions relating to the recusal and disqualification of municipal judges. The bill authorizes a party in a hearing or trial in a municipal court, including a municipal court of record, to file a motion stating grounds for such recusal or disqualification, sets out requirements for such a motion and notice of such a motion, and authorizes a party to file with the clerk of a court a statement opposing or concurring with such a motion before the motion is heard. The bill establishes requirements for a judge following the filing of a motion, for a judge who with or without a motion recuses or disqualifies himself or herself, and for a judge who does not recuse or disqualify himself or herself. The bill sets out requirements for a hearing on a motion, establishes procedures following the granting of a motion and procedures relating to recusal or disqualification without a motion, and provides for the appeal of a motion that is denied. If it is determined by a judge hearing a motion that the motion is brought solely for the purpose of delay and without sufficient cause, the judge may in the interest of justice find the party filing the motion in contempt. The bill establishes the compensation to which an active judge is entitled when hearing a motion. The bill also requires the secretary of a municipality with a municipal court or the employee responsible for maintaining records of the municipality's governing body to notify the Texas Judicial Council within a specified period of the name of each person who is elected or appointed as mayor, municipal court judge, or clerk of a municipal court and of the person's vacancy from such an office.

**House Bill 3796**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 3796 amends the Government Code to move Edwards County from the 63rd Judicial District to the 198th Judicial District.

**House Bill 3844**  
**Effective:** 6-17-11

**House Author:** Aycock  
**Senate Sponsor:** Fraser

House Bill 3844 amends the Government Code to authorize the Commissioners Court of Burnet County to select magistrates to serve the courts of Burnet County having jurisdiction in criminal matters and to provide that a selected magistrate has concurrent criminal jurisdiction

with the judges of the justice of the peace courts of Burnet County and has the same judicial immunity as a district judge. Among other provisions, the bill requires the commissioners court to establish minimum qualifications and the powers and duties of each magistrate position.

**House Bill 3856**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Watson

Current law authorizes a Travis County district judge or a judge of a county court of law in Travis County to refer certain criminal proceedings to a magistrate. House Bill 3856 amends the Government Code to add specified matters to a list of matters that may be referred to a magistrate and to authorize a judge to refer to a criminal law magistrate proceedings involving a grand jury, although the bill prohibits a magistrate from impaneling a grand jury. The bill establishes the powers and duties of a criminal law magistrate in Travis County.

**Senate Bill 85**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Solomons

Senate Bill 85 amends the Government Code to transfer from a county tax assessor-collector to a county voter registrar duties relating to receiving a request for an exemption from jury service and maintaining a register of each person who is exempted.

**Senate Bill 283**  
**Effective:** 6-17-11

**Senate Author:** Harris  
**House Sponsor:** Scott

Previous law required the presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having family law jurisdiction and a child protection caseload, to determine which courts require the appointment of a full-time or part-time associate judge to complete each case within the time frames specified in provisions of law relating to the procedures in a suit by a governmental entity to protect the health and safety of a child and relating to reviewing the placement of children under the care of the Department of Family and Protective Services. Senate Bill 283 amends the Family Code to require the presiding judge to determine which courts require the appointment of an associate judge to complete child protection cases generally.

**Senate Bill 480**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Gallego

Current law allows a defendant in a municipal court of record to appeal a conviction only if the fine assessed against the defendant exceeds \$100. Senate Bill 480 amends the Code of Criminal Procedure and the Government Code to establish that a person convicted in a municipal court of record has the right to appeal the constitutionality of the statute or ordinance on which the conviction is based regardless of the amount of the fine.

Senate Bill 480 sets out provisions relating to the recusal or disqualification of municipal judges to authorize a party in a hearing or trial in a municipal court, including a municipal court of record, to file with the clerk of the court a motion stating grounds for the recusal or disqualification of the municipal judge. The bill establishes procedures, deadlines, and other requirements for filing such a motion, procedures for a municipal judge following the filing of a motion, and procedures for a municipal judge in recusing or disqualifying himself or herself with or without a motion. The bill sets out requirements relating to a hearing on a motion of recusal or disqualification, establishes procedures following the granting of such a motion, provides for the appeal of a court order that denies a motion, and provides for the compensation of a judge who is assigned to hear a motion.

Additionally, Senate Bill 480 revises information required to be reported to the Texas Judicial Council relating to certain municipal matters to require the secretary of the municipality in a municipality with a municipal court, including a municipal court of record, or the employee responsible for maintaining the records of the municipality's governing body to notify the council within a certain time frame of the name of each person who is elected or appointed as mayor, municipal court judge, or clerk of a municipal court and each person who vacates any such office.

Senate Bill 480 repeals provisions of the Government Code and Local Government Code to make conforming changes.

**Senate Bill 483**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Smith, Todd

Senate Bill 483 amends the Government Code to include among the types of criminal cases a judge of a district court, criminal district court, or county criminal court in Tarrant County may refer to a criminal law magistrate in that county any case for proceedings involving the following: an agreed order of expunction of criminal records, a forfeiture of contraband hearing, an agreed order of nondisclosure of criminal history record information, and a hearing on a motion to revoke probation. The bill also authorizes a judge to refer to a magistrate a civil case regarding forfeiture of contraband for any authorized purpose, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial. The bill clarifies the prohibition against a magistrate presiding over a criminal trial and prohibits such a magistrate from hearing a jury trial on the merits of a bond forfeiture. In addition to the powers granted under current law, the bill authorizes a magistrate to accept a negotiated plea on a probation revocation, conduct a contested probation revocation hearing, and sign a dismissal in a misdemeanor case. The bill removes a prohibition against a magistrate entering a ruling on any issue of law or fact that could result in dismissal or require dismissal of a pending criminal prosecution.

Senate Bill 483 amends the Code of Criminal Procedure to authorize a magistrate with jurisdiction over criminal cases serving a district court to issue search warrants to search for and seize property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense.

**Senate Bill 519**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Hartnett et al.

Senate Bill 519 amends the Code of Criminal Procedure to increase from one day to five days the period within which a motion for a new trial is required to be made after the rendition of judgment and sentence in a criminal proceeding in a justice or municipal court.

**Senate Bill 587**  
**Effective:** 6-17-11

**Senate Author:** Uresti  
**House Sponsor:** Darby

Senate Bill 587 amends the Property Code to grant a statutory probate court of Travis County concurrent jurisdiction with any other court on which jurisdiction is conferred by the Texas Probate Code in a proceeding brought by the attorney general alleging breach of a fiduciary duty with respect to a charitable trust created by a will that has been admitted to probate.

**Senate Bill 605**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Gallego et al.

Senate Bill 605 amends the Government Code to require the commissioners court of each county in the Eighth Court of Appeals District to establish an appellate judicial system to assist the court of appeals for the county in the processing of appeals filed with the court of appeals

from the county courts, statutory courts, statutory probate courts, and district courts and to vest management of the system in the chief justice of the court of appeals. The bill provides for funding of the system by requiring the commissioners court to set a court costs fee of \$5 for each civil suit filed in a county court, statutory county court, statutory probate court, or district court in the county other than a suit filed by any governmental entity or a suit for delinquent taxes. The bill requires the clerk of the court to collect the court costs fee and pay it to the county officer who performs the county treasurer's functions for deposit in a separate appellate judicial system fund for the court of appeals district, whose chief justice has sole discretion as to the fund's use.

**Senate Bill 886**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Darby

Senate Bill 886 amends the Civil Practice and Remedies Code to authorize the clerk of a court who is required to enter and maintain information in an execution docket to do so electronically and to prohibit the supreme court from amending or adopting rules in conflict with this provision. The bill amends Tax Code provisions relating to a court clerk's entry of information in the execution docket regarding excess proceeds from the sale of property pursuant to foreclosure of a tax lien to specify that any local government record data may be stored electronically.

**Senate Bill 1195**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Quintanilla

Senate Bill 1195 amends the Government Code to authorize a person summoned for jury service in a county that has a council of judges composed of the judges of the district courts and county courts at law and a designated jury duty court that addresses administrative matters related to jury service paid for by the county to request postponement of the person's initial appearance for jury service by contacting the council of judges' designee in person, in writing, or by telephone before the date on which the person is summoned to appear. The bill requires the council of judges' designee to grant such a postponement if the person has not been granted a postponement in that county since the date on which the jury wheel from which the person was selected to appear was most recently reconstituted and the designee and the person determine a substitute date on which the person will appear for jury service. The bill allows a person to request, and the designee to grant, additional postponements if it is determined that the person has a legitimate reason for such postponement.

**Senate Bill 1200**  
**Effective:** 9-1-11

**Senate Author:** Patrick  
**House Sponsor:** Fletcher et al.

Senate Bill 1200 amends the Code of Criminal Procedure to include as a venue for prosecution of misdemeanor cases in a county with a population of 3.3 million or more any precinct in the county that is adjacent to the precinct in which an offense was committed.

**Senate Bill 1228**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Jackson

Senate Bill 1228 amends the Code of Criminal Procedure to exempt a district clerk from the requirements to accept and file electronic documents and digital multimedia evidence received from the defendant in a criminal proceeding if the clerk accepts this material from an attorney representing the state if the electronic filing system used by the clerk does not have the capability of accepting the material from the defendant and was established or procured before June 1, 2009. The bill provides that the exemption is no longer applicable if the court's electronic filing system is substantially upgraded or is replaced.



**Senate Bill 1242**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Jackson

Current law authorizes a county judge in a county with a population of two million or more to appoint one or more magistrates to hear truancy cases and requires the judge, at the conclusion of a hearing, to adopt, modify, or reject the presiding magistrate's recommendations not later than the third working day after the date the judge receives the recommendations. Senate Bill 1242 amends the Government Code to provide that the magistrate's recommendations are adopted by the judge if the judge does not take action within the specified time. The bill grants to such a magistrate the same judicial immunity as that of a district judge.

**Senate Bill 1521**  
**Effective:** 6-17-11

**Senate Author:** Uresti  
**House Sponsor:** Gallego et al.

Senate Bill 1521 amends the Code of Criminal Procedure to include warrant officers and related equipment among the security personnel, services, and items for which money deposited in a courthouse security fund, a justice court building security fund, or a municipal court building security fund may be used.

**Senate Bill 1807**  
**Effective:** Vetoed

**Senate Author:** Lucio  
**House Sponsor:** Lozano

Senate Bill 1807 amends the Government Code to provide that the 444th Judicial District, formerly composed of Cameron County, is composed of Cameron and Willacy Counties.

Reason Given for Veto: "Senate Bill 1807 would allow the 444th District Court of Cameron County to have concurrent jurisdiction in Willacy County. However, this bill was not thoroughly discussed with all affected entities in Willacy and Cameron counties. While I appreciate any attempt to improve the efficiency of Texas courts, all parties affected by this change should be involved in determining the best methods for making such improvements."

**Senate Bill 1887**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Smith, Todd

Senate Bill 1887 amends the Government Code to require that at least two bailiffs be assigned regularly to the County Criminal Courts Nos. 3, 4, 5, 6, 7, 8, 9, and 10 of Tarrant County. The bill requires each court's judge to appoint one officer to act as the bailiff of that court and requires the sheriff of Tarrant County to appoint a bailiff for each court as prescribed by law. The bill allows the judge of a county criminal court listed above to authorize the sheriff to appoint all bailiffs in the judge's court and requires the sheriff, if so authorized, to appoint at least two officers to act as bailiffs for that court.

**The summaries for the following bills are in the listed chapters:**

House Bill 174 - Elections  
 House Bill 2949 - Criminal Justice  
 Senate Bill 428 - Civil Remedies and Procedures  
 Senate Bill 481 - Probate and Guardianship  
 Senate Bill 910 - Military Forces and Veterans  
 Senate Bill 1320 - Property Interests and Housing



# Criminal Justice

This chapter covers legislation relating to criminal offenses, including offenses relating to the Texas Controlled Substances Act; penalties; crime victims; and procedures, including bail, forfeiture of contraband, and criminal records expunction. This chapter also includes legislation relating to the qualifications and duties of a defense attorney acting in criminal proceedings. Legislation on correctional and rehabilitation facilities, jails, incarcerated individuals, community supervision, parole, and sex offender registration, as well as the functions and duties of the Texas Department of Criminal Justice, is in the **Corrections** chapter, and legislation relating to law enforcement agencies, the Texas Department of Public Safety, and concealed handguns and firearms possession is in the **Law Enforcement** chapter. Legislation relating to juvenile justice, delinquency, and detention and correctional facilities; juvenile court proceedings; and the functions and duties of the Texas Juvenile Justice Department is in the **Juvenile Justice** chapter, and legislation relating to Transportation Code offenses is in the **Transportation** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

**House Bill 215**  
**Effective:** 9-1-11

**House Author:** Gallego et al.  
**Senate Sponsor:** Ellis

House Bill 215 amends the Code of Criminal Procedure to require specified law enforcement agencies to adopt, implement, and as necessary amend a detailed written policy regarding the administration of photograph and live lineup identification procedures that is either developed by the Bill Blackwood Law Enforcement Management Institute of Texas at Sam Houston State University or is the agency's own policy that meets specified requirements. The bill requires the institute, not later than December 31, 2011, and in consultation with specified entities and experts, to develop, adopt, and disseminate a model policy and associated training materials to all law enforcement agencies in Texas, sets out the required contents of the model policy and an agency's own policy, and provides for the biennial review and modification of each type of policy. The bill sets out provisions relating to the admission of eyewitness identification testimony in Texas courts with respect to compliance with the model policy or an agency's own policy.

**House Bill 253**  
**Effective:** 9-1-11

**House Author:** Hilderbran  
**Senate Sponsor:** Nelson

House Bill 253 amends provisions of the Code of Criminal Procedure to establish the statute of limitations for the offense of bigamy at 7 years from the date of the commission of the offense or at 10 years from the 18th birthday of the victim of the offense based on the age of the victim at the time the offense is committed. The bill amends the Penal Code to enhance the penalty for the offense of bigamy under certain conditions related to the age of the victim.

House Bill 253 amends the Family Code to expand the conditions under which a court is authorized to issue a temporary restraining order in a suit by the Department of Family and Protective Services for the removal of an alleged perpetrator of child abuse and amends the Health and Safety Code to enhance the penalty from a Class C misdemeanor to a Class A misdemeanor for an offense of failing to file a birth certificate or report of birth as required by law.

**House Bill 417**  
**Effective:** 6-17-11

**House Author:** Anchia et al.  
**Senate Sponsor:** Ellis

House Bill 417 amends the Civil Practice and Remedies Code and the Government Code to add conditions under which a person is entitled to compensation for wrongful imprisonment, among them the condition that the person has been granted a writ of habeas corpus. The Texas Department of Criminal Justice (TDCJ) is required to provide specified information to a wrongfully imprisoned person. A wrongfully imprisoned person is eligible to obtain group health insurance coverage through the TDCJ as if the person were an employee of the department. The bill sets a time limit for filing an application with the comptroller of public accounts for compensation. Among other provisions, House Bill 417 prohibits a person, including an attorney, from charging or collecting a fee for preparing, filing, or curing a claimant's application for compensation unless the fee is based on a reasonable hourly rate.

**House Bill 1009**  
**Effective:** See below

**House Author:** Callegari  
**Senate Sponsor:** Hegar

House Bill 1009 amends the Code of Criminal Procedure to add a subchapter relating to procedures for obtaining informed consent before certain postmortem examinations or autopsies. The bill prohibits a physician from performing or assisting in the performance of a postmortem examination or autopsy on the body of a deceased person without obtaining the written informed consent of a certain person authorized to provide consent, with certain exceptions. The bill lists the persons authorized to provide consent in order of priority, sets out the contents of and other requirements relating to the consent form, and grants a person authorized to provide consent the right to request the performance or review of the examination or autopsy by a nonaffiliated physician. Certain autopsies ordered by the Texas Department of Criminal Justice, a justice of the peace, or a medical examiner are exempted from the bill's provisions.

House Bill 1009 takes effect September 1, 2011. The sections of the bill repealing provisions of the Government Code relating to consent to an autopsy and conforming to the bill's procedures for consent take effect January 1, 2012.

**House Bill 1070**  
**Effective:** 6-17-11

**House Author:** Scott et al.  
**Senate Sponsor:** Hinojosa

House Bill 1070 amends the Code of Criminal Procedure to establish that a county jailer licensed by the Commission on Law Enforcement Officer Standards and Education is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties.

**House Bill 1638**  
**Effective:** 9-1-11

**House Author:** Aliseda  
**Senate Sponsor:** Whitmire

House Bill 1638 amends the Code of Criminal Procedure to require a judge of a court in which a district or county attorney represents the state to declare the attorney disqualified on a showing that the attorney is the subject of a law enforcement agency's criminal investigation that is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. 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.

**House Bill 1754**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Wentworth et al.

House Bill 1754 amends the Government Code, Code of Criminal Procedure, and Local Government Code relating to the reorganization of powers and duties among certain state entities that provide representation to indigent defendants in certain criminal and juvenile offense cases and to the reorganization of funding sources for indigent defense. The bill establishes the Texas Indigent Defense Commission as a permanent standing committee of the Texas Judicial Council, abolishes the Task Force on Indigent Defense, and transfers the powers, duties, obligations, rights, contracts, records, personnel, property, and unspent appropriations of the task force to the commission. The bill establishes a governing board for the commission, provides for the composition of the board and the appointment, meetings, compensation, and immunity of board members, and requires the board to adopt rules relating to the implementation of the commission. The bill establishes the general powers and duties of the commission, including developing policies and standards for providing legal representation and other defense services to indigent defendants in certain criminal and juvenile proceedings and developing a plan that establishes statewide requirements for counties relating to reporting indigent defense information, and provides for the collaboration by specified county officers in providing the commission that information. The bill establishes the fair defense account in the general revenue fund to be appropriated only to the commission and the office of capital writs for specified purposes and provides that the commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

House Bill 1754 requires each legal clinic or program in Texas 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 has provided legal services to an indigent defendant during the preceding calendar year and in which, based on a finding of actual innocence, the court of criminal appeals overturns a conviction or the governor issues a pardon based on actual innocence. The report must identify each likely cause of a listed wrongful conviction and recommend best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

House Bill 1754 revises procedures for the provision of public defense at the county or regional level to authorize the establishment of a county or regional public defender's office and an oversight board for such a public defender's office. The bill authorizes a county, on certain written approval, to appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program for the purpose of appointing indigent defense counsel, requires each such program to have a plan of operation that includes certain elements, establishes program criteria and requirements, and provides for funding and personnel for programs.

**House Bill 1822**  
**Effective:** 9-1-11

**House Author:** Harless  
**Senate Sponsor:** Huffman

House Bill 1822 amends the Occupations Code to authorize a holder of a bail bond surety license to withdraw a portion of a deposited or executed security, rather than withdrawing the entire security only, if certain conditions apply. The bill revises the conditions under which a withdrawal may be made based on the amount of the security remaining after the withdrawal and whether the person requesting the withdrawal is a license holder in good standing or a former license holder who has ceased to engage in the bonding business, or a former license holder's heir or assign. The bill authorizes the county bail bond board to adopt rules to limit the number of times in a year security may be returned to a license holder.



**House Bill 1823**  
**Effective:** 9-1-11

**House Author:** Harless  
**Senate Sponsor:** Huffman

House Bill 1823 amends the Code of Criminal Procedure to authorize a corporation legally authorized to act as a surety to execute a bail bond to limit the authority of a designated agent by specifying the limitation in the power of attorney filed with the county clerk. The bill prohibits a person from acting as a surety on a bail bond for compensation if the person has been convicted of a misdemeanor involving moral turpitude or a felony.

**House Bill 1891**  
**Effective:** 9-1-11

**House Author:** Davis, Sarah et al.  
**Senate Sponsor:** Huffman

House Bill 1891 amends the Code of Criminal Procedure to specify that a warrant for the search and seizure of data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic, communication, or data storage device is considered to be executed within the time prescribed by law if the device is seized before the expiration of the time allowed. The bill authorizes the recovery and analysis of any data or information contained in or on a seized device after the expiration of the time allowed.

**House Bill 1994**  
**Effective:** 6-17-11

**House Author:** Weber et al.  
**Senate Sponsor:** Van de Putte

House Bill 1994 amends the Health and Safety Code to authorize the commissioners court of a county or the governing body of a municipality to establish a first offender prostitution prevention program for defendants charged with a prostitution offense in which the defendant offered or agreed to hire a person to engage in sexual conduct. The bill sets out the essential characteristics, powers, and duties of a first offender prostitution prevention program and makes a defendant eligible to participate in such a program only if the attorney representing the state consents to the defendant's participation and the court in which the criminal case is pending finds that the defendant has not been previously convicted of certain specified offenses. The bill requires a court to enter an order of nondisclosure with respect to a defendant's arrest records and files relating to the offense for which the defendant entered the program on a defendant's successful completion of a program if the defendant meets certain requirements. The bill establishes consequences for a defendant who chooses to participate in a program but fails to attend any portion of the program. The bill provides for oversight of first offender prostitution programs and establishes program participation fees to be allocated in a specified amount and manner to fund certain program costs.

House Bill 1994 amends the Government Code to make conforming changes relating to first offender prostitution program participation fees.

**House Bill 2014**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Van de Putte et al.

House Bill 2014 amends provisions of the Alcoholic Beverage Code, Code of Criminal Procedure, Government Code, and Penal Code relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses and to the prevention, prosecution, and punishment of those offenses. The bill makes provisions of the Alcoholic Beverage Code specifying limitations on the approval or issuance of certain alcoholic beverage permits and licenses applicable to an applicant whose application, permit, or license was surrendered, suspended, or canceled as a result of an offense or allegations of an offense involving prostitution or trafficking of persons. The bill makes provisions of the Code of Criminal Procedure relating to denial of bail and judge-ordered community supervision for sexual offenses against children applicable to a defendant charged with or placed on community supervision

for an offense of compelling prostitution of a child or an offense of trafficking of persons if the defendant trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct. A court is required to order a defendant convicted of a trafficking of persons or compelling prostitution of a child offense to pay restitution for any victim of the offense who is younger than 18 years of age, and the bill sets out certain provisions relating to the restitution. The bill also includes certain information relating to a compelling prostitution of a child offense or a certain trafficking of persons offense among the types of information the Department of Public Safety (DPS) is required to maintain in the computerized criminal history system.

House Bill 2014 amends the Government Code to require a district court or a county court at law to report the number of cases filed for an offense of trafficking of persons, a prostitution offense, and a compelling prostitution offense and to require the DPS bureau of identification and records to collect information that enables the bureau to create a statistical breakdown of trafficking of persons and compelling prostitution offenses. The bill makes provisions relating to a child safety zone established as a condition of parole or mandatory supervision applicable to a releasee serving a sentence for a compelling prostitution of a child offense or a certain trafficking of persons offense committed against a child. The bill amends provisions relating to the criminal justice division's use of money appropriated from the trafficking of persons investigation and prosecution account. The bill also amends the Penal Code to enhance the penalty for an offense of selling or purchasing a child from a third degree felony to a second degree felony if the actor commits the offense with intent to commit a trafficking of persons, prostitution, or compelling prostitution offense and to enhance the penalty for prostitution from a Class B misdemeanor to a third degree felony if the person solicited is 14 years of age or older and younger than 18 years of age and to a second degree felony if the person solicited is younger than 14 years of age. The bill increases the penalty for employment harmful to children from a Class A misdemeanor to a second degree felony and enhances the penalty to a first degree felony if the child is younger than 14 years of age at the time the offense is committed.

**House Bill 2385**  
**Effective:** 6-17-11

**House Author:** Geren  
**Senate Sponsor:** Harris

House Bill 2385 amends the Code of Criminal Procedure to designate the University of North Texas Health Science Center at Fort Worth as a criminal justice agency that performs forensic DNA analyses on evidence for purposes of the center's missing persons DNA database and to require the center to comply with federal law relating to the index of DNA identification records established by the Federal Bureau of Investigation. The bill removes the restriction limiting the purpose of the center's DNA database to the identification of unidentified human remains and high-risk missing persons. The bill repeals a provision that established the center's DNA database as separate from the computerized DNA database established by the Department of Public Safety.

**House Bill 2472**  
**Effective:** 9-1-11

**House Author:** Marquez  
**Senate Sponsor:** Rodriguez

House Bill 2472 amends the Code of Criminal Procedure to authorize, rather than require, a sheriff to report to the national crime information center within a specified period each warrant or capias issued for a defendant charged with a misdemeanor other than a Class C misdemeanor who fails to appear in court when summoned and to clarify the sheriff's duty to make that report for a defendant charged with a felony under those circumstances.

**House Bill 2662**  
**Effective:** 9-1-11

**House Author:** Hochberg et al.  
**Senate Sponsor:** Hinojosa

House Bill 2662 amends the Code of Criminal Procedure to expand the criteria that determines whether a child is a missing child to include certain circumstances in which the child's whereabouts are unknown and the absence indicates that the child was taken or retained without the permission of the child's legal custodian and with the effect of depriving the custodian of possession of or access to the child, unless the taking or retention was due to the commission or attempted commission of family violence against the child or the actor.

**House Bill 2949**  
**Effective:** 9-1-11

**House Author:** Cook  
**Senate Sponsor:** Eltife

House Bill 2949 amends the Code of Criminal Procedure to make provisions relating to the court collection improvement program apply to each Texas county, rather than a county with a population of 50,000 or greater, and to authorize, rather than require, such a county to develop and implement a program that complies with the prioritized implementation schedule developed by the Office of Court Administration of the Texas Judicial System. Among other provisions, the bill makes program requirements apply with respect to eligible criminal cases in which judgment has been entered by a trial court and removes all authority of the comptroller of public accounts in jointly administering collection improvement programs with the office.

House Bill 2949 amends the Local Government Code to provide a 180-day period in which a municipality may reestablish compliance with the requirements of the collection improvement program before being prohibited from retaining a service fee from collected court fees and before becoming ineligible to retain a percentage of time payment fees.

Current law requires a political subdivision to notify the Department of Public Safety when there is no cause to continue to deny renewal of a person's driver's license for failure to appear in court or pay or satisfy a judgment ordering the payment of a court fine and cost. House Bill 2949 amends the Transportation Code to require such notification to be provided immediately.

**House Bill 3439**  
**Effective:** 9-1-11

**House Author:** Raymond  
**Senate Sponsor:** Rodriguez

House Bill 3439 amends the Code of Criminal Procedure to expand the criteria that determine whether a child is a missing child to include certain circumstances in which the child's whereabouts are unknown and the absence indicates that the child was taken or retained without the permission of the child's legal custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention was prompted by the commission or attempted commission of family violence against the child or the actor.

House Bill 3439 amends the Penal Code to expand the conduct that constitutes the offense of interference with child custody to include taking or retaining 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, to establish affirmative defenses to prosecution for that conduct, and to create an exception to the application of the offense involving that conduct.

**House Bill 3746**  
**Effective:** 9-1-11

**House Author:** Frullo et al.  
**Senate Sponsor:** Carona

House Bill 3746 adds a chapter to the Government Code relating to investigations of certain offenses involving Internet-based sexual exploitation of a minor. The Internet crimes against children account is created in the general revenue fund and may be appropriated only to support the administration and activities of a federally recognized Internet Crimes Against

Children task force in Texas. The bill requires the attorney general to assist authorized persons in obtaining administrative subpoenas to investigate and prosecute offenses involving such exploitation, authorizes certain persons to issue, cause to be served, and serve administrative subpoenas under certain circumstances, and sets out the required contents of the subpoena and the types of records and documents that may be subpoenaed. The bill prohibits an electronic communication or computing service provider from disclosing certain specified information in response to a subpoena, except if required by court order, and provides for the confidentiality of any information, records, or data reported or obtained under a subpoena and for the disposal or return of records or documentation under certain circumstances.

**Senate Bill 24**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte et al.  
**House Sponsor:** Thompson et al.

Senate Bill 24 amends provisions relating to the prosecution, punishment, and certain criminal and civil consequences of offenses involving or related to the trafficking of persons and to certain protections for victims of those offenses. The bill amends the Penal Code to expand the conditions that constitute the first and second degree felony offenses of trafficking of persons. The bill prohibits a defendant from being convicted of certain offenses in the same criminal action under certain conditions and increases from a second degree felony to a first degree felony the penalty for an offense of compelling prostitution of a child younger than 18 years of age.

Senate Bill 24 amends the Code of Criminal Procedure to include a person who is the victim of a certain trafficking of persons offense, a parent or guardian of such a person, or a prosecuting attorney acting on behalf of such a person among the persons authorized to file an application for a protective order and sets out provisions relating to such a protective order. The bill sets out provisions relating to the statute of limitations for various trafficking of persons offenses, venue for such offenses, and supportable conviction of such offenses. The bill sets out provisions relating to testimony of a child, exception to the hearsay rule, admittance of evidence, judge-ordered community supervision, and registration as a sex offender for various trafficking of persons offenses.

Senate Bill 24 amends the Civil Practice and Remedies Code to establish a five-year limitations period during which a person may bring suit for personal injury that arises as a result of conduct violating an offense of compelling prostitution or an offense of trafficking of persons and establishes the conduct for which a person maintains a common nuisance.

Senate Bill 24 amends the Family Code to make an exception to the hearsay rule for an offense committed against a child 12 years of age or younger or a person with a disability under certain conditions. The bill authorizes a court to order termination of the parent-child relationship under certain conditions relating to an offense of compelling prostitution of a child or trafficking a child and sets out provisions relating to accelerating a trial for a final order for a child under the care of the Department of Family and Protective Services.

Senate Bill 24 amends the Government Code to make an inmate awaiting transfer to the institutional division of the Texas Department of Criminal Justice (TDCJ), or serving a sentence, for a trafficking of persons offense ineligible to be considered for release to intensive supervision parole and prohibits an inmate serving a sentence for or who has been previously convicted of a compelling prostitution offense or a trafficking of persons offense from being released to mandatory supervision.

In addition, Senate Bill 24 amends the Penal Code to make changes in provisions authorizing sentences to run concurrently or consecutively for certain persons found guilty of more than one offense arising out of the same criminal episode. The bill sets out provisions relating to conduct that results in imprisonment in TDCJ for life and offenses that classify conduct as an offense of

criminal solicitation of a minor. The bill expands the conditions that constitute the offense of aggravated sexual assault.

**Senate Bill 144**

**Effective:** See below

**Senate Author:** West

**House Sponsor:** Thompson et al.

Senate Bill 144 amends the Code of Criminal Procedure to authorize the governor, in all criminal cases except treason and impeachment, and on the written signed recommendation and advice of the Board of Pardons and Paroles or a majority thereof, to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision. The bill takes effect January 1, 2012, contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 9.

**Senate Bill 315**

**Effective:** 6-17-11

**Senate Author:** Carona et al.

**House Sponsor:** Madden

Senate Bill 315 amends the Code of Criminal Procedure to require a juvenile justice agency, in addition to a criminal justice agency, to compile information in the criminal combination and criminal street gang intelligence database and to authorize a juvenile justice agency to release database information to an attorney representing a child who is party to a proceeding under the Juvenile Justice Code.

Senate Bill 315 revises the composition of the Texas Violent Gang Task Force and requires the task force, if practicable, to consult with representatives from one or more United States Attorneys' Offices in Texas and with representatives from specified federal agencies who are available and assigned to a duty station in Texas.

**Senate Bill 604**

**Effective:** 9-1-11

**Senate Author:** Rodriguez

**House Sponsor:** Gonzalez et al.

Senate Bill 604 amends the Code of Criminal Procedure to authorize a licensed county jailer who has successfully completed a training program provided by the sheriff 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 to the same extent that a peace officer is lawfully authorized to execute process.

**Senate Bill 934**

**Effective:** 9-1-11

**Senate Author:** Williams

**House Sponsor:** Hilderbran

Senate Bill 934 amends the Code of Criminal Procedure to authorize the prosecution of criminal conspiracy, engaging in organized criminal activity, and money laundering offenses in any county in which venue is proper under the Tax Code for the offense if the prosecution is based on a criminal offense classified as a felony under the Tax Code.

The bill authorizes the state, in the trial of an offense under the Tax Code or a tax-related offense under the Penal Code, to file a written request with the court in which the indictment or information is pending for the court to make affirmative findings regarding the commission of tax fraud. The bill requires the state to provide the defendant with a copy of its request before the trial and establishes the grounds under which the court must make the requested affirmative findings and enter the findings in the papers in the case.

The bill amends the Government Code to authorize the comptroller of public accounts to accept money or property under a federal equitable sharing program and to require the comptroller, in so doing, to comply with federal program requirements. The bill entitles the comptroller to obtain from the Department of Public Safety criminal history record information



maintained by the department that the comptroller believes is necessary for the enforcement and administration of Tax Code provisions relating to motor fuel taxes.

The bill amends the Penal Code to include within the meaning of “proceeds,” as it pertains to the offense of money laundering, funds acquired, derived, produced, or realized through the failure to pay to the comptroller the taxes collected by a person. The bill expands the conditions that constitute the offense of engaging in organized criminal activity to include the commission of or the conspiracy to commit any offense classified as a felony under the Tax Code with the specified intent.

The bill amends the Tax Code to make Penal Code provisions relating to criminal conspiracy, a renunciation defense, and organized crime applicable to offenses prescribed by the Tax Code. The bill authorizes an investigator employed by the comptroller to investigate any criminal offense under the Tax Code or any criminal offense under any other law if the offense relates directly or indirectly to a tax, fee, penalty, or charge administered, collected, or enforced by the comptroller. The bill grants to an investigator commissioned by the comptroller as a peace officer the powers of a peace officer coextensive with the boundaries of the state and authorizes the comptroller or attorney general to use information or records made confidential by provisions of law relating to state taxation to enforce state or federal criminal laws.

The bill expands the tolling of the limitations period on the assessment, collection, or refunding of a state tax to include the period during which an indictment or information is pending for a felony offense related to the administration of the Tax Code against any taxpayer or any person personally liable or potentially personally liable for the payment of the tax. The bill expands the records retention requirement for all sellers and other persons storing, using, or consuming in the state a taxable item purchased from a retailer to include the retention of sales receipts, invoices, or equivalent records showing all sales and use tax, and any money represented to be sales and use tax, received or collected on each sale, rental, lease, or service transaction during each reporting period.

The bill revises and expands the range of penalties for the offense of failing to pay a collected tax and authorizes both the consideration of conduct under which tax is collected and not paid pursuant to one scheme or continuous course of conduct as one offense and the aggregation of the amounts in determining the grade of the offense. The bill makes the range of penalties for certain offenses relating to an exemption or resale certificate applicable to the offense of intentionally concealing, removing, or impairing the verity or legibility of such a certificate or unreasonably impeding the certificate’s availability.

The bill makes it an offense to intentionally fail to produce in a timely manner records documenting the taxable sale of beer, wine, malt liquor, cigarettes, cigars, and tobacco products obtained using a resale certificate if the records are required to be kept and are requested by the comptroller in an investigation or audit. The bill establishes specific penalties for the offense and authorizes both the consideration of conduct that constitutes the offense, if it is related to one scheme or continuous course of conduct, as one offense and the aggregation of the amounts of tax avoided in determining the grade of the offense.

The bill authorizes the comptroller to retain for official use by the comptroller’s criminal investigation division property seized by and forfeited to the state in the enforcement of the cigarette tax or the cigar and tobacco products tax as an alternative to selling that property at a public or private sale.

The bill authorizes the comptroller to photograph cigarettes or tobacco products seized in the enforcement of the cigarette tax or the cigar and tobacco products tax before their sale and specifies that the state, in a proceeding arising out of provisions relating to such taxes, is not required to produce the actual cigarettes or tobacco products. The photographs are admissible

in evidence under rules of law governing the admissibility of photographs and are as admissible as are the cigarettes and tobacco products themselves.

**Senate Bill 953**  
**Effective:** 9-1-11

**Senate Author:** Whitmire  
**House Sponsor:** Madden

Senate Bill 953 amends the Transportation Code to authorize a court granting an occupational driver's license to require as a condition of the license that the person submit to periodic testing for alcohol or controlled substances if the person's license has been suspended for failure to pass a test for intoxication, for refusal to provide a specimen, or as a result of the person's conviction of an offense involving the operation of a motor vehicle while intoxicated. The bill authorizes the court granting an occupational license to order the person receiving the license to pay a monthly administrative fee and to submit to supervision by a local community supervision and corrections department to verify compliance with the conditions in the order granting the license and includes provisions relating to the duration of supervision. The bill requires as conditions for such a license restricting the person to the operation of a motor vehicle equipped with an ignition interlock device and requiring the person to submit to periodic testing for alcohol or controlled substances.

Senate Bill 953 amends the Government Code to increase from \$40 to \$60 the maximum amount of the administrative fee assessed against an individual who participates in certain community supervision programs.

**Senate Bill 1308**  
**Effective:** 9-1-11

**Senate Author:** Seliger  
**House Sponsor:** McClendon et al.

Senate Bill 1308 amends the Code of Criminal Procedure to require the local selection committee in an administrative judicial region that adopts standards for the qualifications of attorneys appointed to represent indigent defendants in death penalty cases to make a determination, at the request of an attorney, 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. The bill requires a local selection committee to amend its standards by a certain date as necessary to conform with this requirement and creates an exception to a certain related standard for qualification as a trial attorney in a capital case or appeal if a local selection committee makes a certain determination regarding the conduct underlying the judicial finding.

**Senate Bill 1551**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez et al.  
**House Sponsor:** Raymond et al.

Senate Bill 1551 amends the Code of Criminal Procedure to establish venue for prosecution of an offense classified as an offense against the person involving a victim younger than 18 years of age, or an offense of interference with child custody, that results in bodily injury to such a child. The bill expands the criteria that determine whether a child is a missing child to include certain circumstances in which the child's whereabouts are unknown and the absence indicates that the child was taken or retained without the permission of the child's legal custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention was prompted by the commission or attempted commission of family violence against the child or the actor.

Senate Bill 1551 amends the Penal Code to expand the conduct that constitutes the offense of interference with child custody to include taking or retaining 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, to

establish affirmative defenses to prosecution for that conduct, and to create an exception to the application of the offense involving that conduct.

**Senate Bill 1636****Effective:** 9-1-11**Senate Author:** Davis et al.**House Sponsor:** McClendon

Senate Bill 1636 amends the Government Code to make changes in the Sexual Assault Prevention and Crisis Services Act relating to evidence collection. The bill prohibits evidence collected under that act using the evidence collection protocol and kit from being released unless a signed, written consent to release the evidence is obtained, requires personnel who handle sexual assault evidence collected in accordance with law to maintain the chain of custody of the evidence, and sets out provisions governing procedures relating to the analysis of sexual assault evidence. The Department of Public Safety (DPS) and other applicable public accredited crime laboratories may contract with private accredited crime laboratories as appropriate to perform those analyses. The bill establishes that the failure of a law enforcement agency to submit sexual assault evidence within the required period does not affect the authority of the agency to submit the evidence to an accredited crime laboratory for analysis or the authority of an accredited crime laboratory to analyze the evidence or provide the results of that analysis to appropriate persons.

Senate Bill 1636 requires DPS, on request, to compare the DNA profile obtained from the biological evidence with DNA profiles maintained in certain databases if the amount and quality of the analyzed sample meet the requirements of the respective database's comparison policies. The bill requires consent for the release of evidence contained in an evidence collection kit to be in writing and signed by the survivor under certain conditions, sets out provisions governing such consent, and sets out procedures relating to the withdrawal and disclosure of such consent.

Senate Bill 1636 amends the Code of Criminal Procedure to require DPS procedures relating to the submission or collection of additional evidence of an alleged sexual assault and the transfer and preservation of evidence collected by a health care facility from certain sexual assault victims to be consistent with the Sexual Assault Prevention and Crisis Services Act. The bill establishes requirements for DPS and law enforcement agencies relating to the analysis of certain unanalyzed sexual assault evidence and requires DPS to submit to the governor and the appropriate standing committees of the senate and the house of representatives a report containing a projected timeline for the completion of laboratory analyses of all unanalyzed sexual assault evidence relating to active criminal cases submitted by law enforcement agencies not yet submitted for laboratory analysis; a request for any necessary funding to accomplish the analyses for such unanalyzed evidence, including a request for a grant of money from the criminal justice planning fund, if money is available; as appropriate, application materials for the required requests made by DPS; a proposal for determining which evidence should be outsourced; and a list of laboratories DPS determines are capable of completing the outsourced analyses.

Senate Bill 1636 requires DPS, to the extent that funding is available, to analyze or contract for the analysis of, and complete the required database comparison regarding, all sexual assault evidence not yet submitted for laboratory analysis that is submitted to DPS by law enforcement agencies. The bill exempts DPS from a requirement to use in a state fiscal year any amount of money from the state highway fund that exceeds the amount DPS has historically used in a state fiscal year to fund laboratory analyses of sexual assault evidence. The bill authorizes DPS to solicit and receive grants, gifts, or donations of money. In addition, the bill makes its provisions inapplicable to sexual assault evidence collected before September 1, 1996.

**Senate Bill 1649**  
**Effective:** 6-17-11

**Senate Author:** Watson et al.  
**House Sponsor:** Margo

Senate Bill 1649 amends the Government Code to require the criminal justice division in the governor's office to establish and administer a grant program through which an eligible prosecuting attorney or the attorney's office may apply for a grant to support, in a county or counties under the jurisdiction of the attorney, the prosecution of any crime that occurs in the border region and that undermines public safety or security. The bill authorizes undedicated and unobligated funds in the operators and chauffeurs license account to be appropriated to the division for the grant program and requires the division to establish grant procedures and guidelines. The bill also includes certain reporting requirements.

**Senate Bill 1686**  
**Effective:** 9-1-11

**Senate Author:** Ellis  
**House Sponsor:** Anchia

Senate Bill 1686 amends the Civil Practice and Remedies Code and the Insurance Code to make a person who is entitled to compensation for wrongful imprisonment also eligible to obtain group health insurance through the Texas Department of Criminal Justice (TDCJ) as if the person were an employee of TDCJ. The bill sets the coverage period as a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully imprisoned. The bill requires a person who elects to obtain the coverage to pay the same monthly contribution as a TDCJ employee and authorizes the reduction of annuity payments by an amount necessary to make the required payments.

**Senate Joint Resolution 9**  
**For Election:** 11-8-11

**Senate Author:** West  
**House Sponsor:** Thompson et al.

Senate Joint Resolution 9 proposes an amendment to the state constitution to authorize the governor, in all criminal cases except treason and impeachment and on the written signed recommendation of the Board of Pardons and Paroles, to pardon a person who successfully completes a term of deferred adjudication community supervision.

## **Crime Victim Rights and Services**

**House Bill 649**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Hinojosa

House Bill 649 amends the Code of Criminal Procedure to remove the requirement that a court find that a victim of sexual assault is younger than 18 years of age or, regardless of age, is the subject of a specified threat before issuing a protective order for the victim. The bill removes a provision relating to the duration of a protective order for a victim of sexual assault based on the finding that the victim is the subject of the specified threat.

**House Bill 1028**  
**Effective:** 9-1-11

**House Author:** Phillips et al.  
**Senate Sponsor:** Estes

House Bill 1028 amends the Code of Criminal Procedure and the Government Code to authorize a court to prohibit a defendant being sentenced to a term of confinement or imprisonment from contacting the victim of the related offense or a member of the victim's family during the term of confinement or imprisonment and to establish consequences for violating this prohibition. The bill authorizes a parole panel considering the release of an inmate on parole or to mandatory supervision to consider whether the inmate violated a certain Texas Department

of Criminal Justice policy or court order prohibiting an inmate from contacting a victim or the victim's family.

**House Bill 1721**  
**Effective:** 9-1-11

**House Author:** Lucio III et al.  
**Senate Sponsor:** Zaffirini

House Bill 1721 amends the Code of Criminal Procedure to authorize a person to request a court to render a protective order at any proceeding related to a stalking offense in which the defendant appears before the court and to require a court to render a protective order if, in lieu of the finding that family violence occurred and is likely to occur in the future, the court finds that probable cause exists to believe that a stalking offense occurred and that the defendant is likely to engage in the future in conduct relating to that offense. The bill sets out procedures relating to the application for and enforcement of a stalking protective order and provides for the admissibility of the hearsay statement of a certain sexual offense child victim in a hearing on an application for a protective order for a sexual assault victim.

**House Bill 2124**  
**Effective:** 6-17-11

**House Author:** Workman et al.  
**Senate Sponsor:** Huffman

House Bill 2124 amends the Code of Criminal Procedure to require the clerk of a court that issues an order requiring the release of a person acquitted by reason of insanity on discharge or on a regimen of outpatient care to directly notify the victim or the victim's guardian or close relative of the release instead of providing the victim's contact information to the Texas Department of Criminal Justice victim services division to enable the division to provide that notification.

**House Bill 2329**  
**Effective:** 9-1-11

**House Author:** Zedler  
**Senate Sponsor:** Van de Putte

House Bill 2329 amends provisions of the Code of Criminal Procedure and the Tax Code to authorize a trafficking of persons victim, a parent or guardian acting on behalf of such a victim younger than 18 years of age, or a prosecuting attorney acting on behalf of such a victim to apply for a protective order in an appropriate court and to authorize a court to enter a temporary ex parte order for the protection of an applicant or applicant's family or household member under certain circumstances. The bill sets out the findings required to be made by a court to issue a temporary pretrial protective order and a temporary post-trial protective order, establishes the conditions that a court may specify in a protective order for a trafficking of persons victim and the required contents of the order, and provides for the duration of a post-trial protective order. The bill provides for the confidentiality of the files and records of a trafficking of persons victim, makes it a Class C misdemeanor for a person who has access to certain identifying information of such a victim younger than 18 years of age to knowingly disclose that information to any unauthorized person, and establishes an affirmative defense to prosecution for that offense.

**Senate Bill 250**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Anchia et al.

Senate Bill 250 amends the Code of Criminal Procedure to expand the applicability of provisions relating to a protective order for a victim of sexual assault to include a victim of stalking.

**Senate Bill 1010**  
**Effective:** 9-1-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Workman et al.

Senate Bill 1010 amends the Code of Criminal Procedure to require the attorney representing the state, as far as reasonably practical, to give to the victim of an offense, the victim's guardian,



or the close relative of a deceased victim notice of the existence and terms of any plea bargain agreement to be presented to the court and to require the court, before accepting a plea of guilty or a plea of nolo contendere, to inquire as to whether that notice has been given.

## Offenses and Penalties

### **House Bill 3**

**Effective:** 9-1-11

**House Author:** Thompson et al.

**Senate Sponsor:** Huffman

House Bill 3 amends the Penal Code to enhance the punishment for a defendant convicted of aggravated sexual assault to imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of the offense that the defendant has previously been finally convicted of continuous sexual abuse of a young child or children or aggravated sexual assault or an offense committed under another state's laws containing substantially similar elements. The bill includes aggravated sexual assault and an offense committed under another state's laws containing substantially similar elements as offenses a previous conviction of which renders such punishment enhancement for a defendant convicted of certain sexual offenses. The bill amends the Code of Criminal Procedure and the Government Code to make conforming changes in provisions relating to eligibility for deferred adjudication community supervision and release on parole.

### **House Bill 25**

**Effective:** 9-1-11

**House Author:** Guillen et al.

**Senate Sponsor:** Patrick

Under current law, a person commits the offense of unlawful carrying of a weapon by carrying a handgun, illegal knife, or club if the person is not on certain premises or inside of or directly en route to a motor vehicle owned by or under the control of the person, or by carrying a handgun in such a motor vehicle under certain circumstances. House Bill 25 amends the Penal Code to expand the scope of the offense to include carrying the weapon under those conditions with respect to a watercraft and to exempt from the application of the offense a person who is en route between the premises of lawful hunting, fishing, or other sporting activities and the actor's watercraft, if the weapon is a type commonly used in the activity.

### **House Bill 260**

**Effective:** 9-1-11

**House Author:** Hilderbran et al.

**Senate Sponsor:** Patrick

House Bill 260 amends the Penal Code to replace the offense of unlawful transport of a person with the offense of smuggling of persons and to revise the conduct that constitutes the state jail felony offense. The bill enhances the penalty for smuggling of persons to a third degree felony under certain circumstances, provides an affirmative defense to prosecution for the offense if the actor is related to the transported individual within the second degree of consanguinity or affinity, and establishes venue for the prosecution of the offense. The bill amends the Code of Criminal Procedure to include the offense of smuggling of persons within the scope of the offense of engaging in organized criminal activity and the definition of criminal contraband.

### **House Bill 290**

**Effective:** 9-1-11

**House Author:** Jackson et al.

**Senate Sponsor:** Nelson

House Bill 290 amends the Penal Code to enhance the penalty for employment harmful to children from a Class A misdemeanor to a state jail felony if it is shown at trial that the defendant has been previously convicted one time of the offense and to a third degree felony if it is shown at trial that the defendant has been previously convicted two or more times of the offense.

**House Bill 612**  
**Effective:** 9-1-11

**House Author:** Hopson  
**Senate Sponsor:** Nichols

Previous law made it a state jail felony for a timber trustee, knowingly or with intent to defraud, to divert more than \$500 of trust money without first fully paying all of the beneficiaries the purchase price for timber. House Bill 612 amends the Natural Resources Code to create a value ladder under which the penalty assessed is based on the value of the timber sold.

**House Bill 613**  
**Effective:** 9-1-11

**House Author:** Hopson et al.  
**Senate Sponsor:** Nichols

Previous law provided that a person who harvests or causes another person to harvest standing timber without the permission of the owner is liable to the owner for damages in an amount equal to three times the market price of the timber harvested. House Bill 613 amends the Natural Resources Code to make such an actor liable in an amount equal to the sum of the mill price of the timber harvested and all reasonable expenses incurred by the owner as a direct result of the unauthorized harvesting.

The bill makes it an offense for a person to harvest standing timber with knowledge that the harvesting is without the permission of the owner of the standing timber or to cause another person to harvest standing timber without such permission and establishes a range of punishments based on the value of the timber harvested.

**House Bill 718**  
**Effective:** 9-1-11

**House Author:** Fletcher et al.  
**Senate Sponsor:** Birdwell

House Bill 718 amends the Penal Code to extend the period during which a person engaged in picketing within 1,000 feet of a facility or cemetery being used for a funeral service commits the offense of funeral service disruption from one hour before the service begins until one hour after the service is completed to three hours before the service begins until three hours after the service is completed.

**House Bill 1043**  
**Effective:** 9-1-11

**House Author:** Christian et al.  
**Senate Sponsor:** Lucio

House Bill 1043 amends the Penal Code to create the offense of cockfighting. The bill makes it a state jail felony to knowingly cause a cock to fight with another cock or to participate in the earnings of a cockfight and makes it a Class A misdemeanor to knowingly use or permit another to use certain property for cockfighting, own or train a cock with the intent that it be used in a cockfighting exhibition, or manufacture, buy, sell, barter, exchange, possess, advertise, or otherwise offer a certain sharp implement intended for use in cockfighting. The bill makes it a Class C misdemeanor to knowingly attend as a spectator an exhibition of cockfighting and enhances the penalty for a subsequent conviction of such an offense to a Class A misdemeanor. The bill establishes an affirmative defense to prosecution for a cockfighting offense and provides an exception to the application of the offense involving attending a cockfighting exhibition as a spectator for a person 15 years of age or younger.

**House Bill 1199**  
**Effective:** 9-1-11

**House Author:** Gallego et al.  
**Senate Sponsor:** Davis

House Bill 1199 amends the Penal Code to enhance the penalty for driving while intoxicated from a Class B misdemeanor to a Class A misdemeanor if it is shown at trial that an analysis of the person's blood, breath, or urine specimen showed an alcohol concentration level of 0.15 or more at the time the analysis was performed. The bill enhances the penalty for intoxication assault from a third degree felony to a second degree felony if it is shown at trial that the person

caused serious bodily injury to another in the nature of a traumatic brain injury that results in a persistent vegetative state.

**House Bill 1215**  
**Effective:** 9-1-11

**House Author:** McClendon et al.  
**Senate Sponsor:** Uresti

House Bill 1215 amends the Penal Code to create the offense of unauthorized acquisition or transfer of certain financial information. The bill makes it a Class B misdemeanor for a person to obtain 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, knowing that the person is not entitled to obtain or possess the financial information. The bill also makes it a Class A misdemeanor for a person, knowing that the person is not entitled to obtain or possess the information, to transfer to a third party information obtained in that manner.

House Bill 1215 amends the Code of Criminal Procedure to establish reporting requirements relating to an alleged violation of unauthorized acquisition or transfer of certain financial information and to establish venue for the prosecution of such an offense.

**House Bill 1344**  
**Effective:** 9-1-11

**House Author:** Burkett  
**Senate Sponsor:** Deuell

House Bill 1344 amends the Penal Code to establish a defense to prosecution for the offense of selling, distributing, or exhibiting harmful material to a minor if the actor is the spouse of the minor at the time of the offense and removes the defense to prosecution that the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse. The bill makes it an affirmative defense to prosecution, rather than a general defense to prosecution, that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

**House Bill 1529**  
**Effective:** 9-1-11

**House Author:** Miller, Sid et al.  
**Senate Sponsor:** Wentworth

House Bill 1529 amends provisions of the Penal Code relating to the offense of fraudulent use or possession of identifying information to clarify that identifying information includes a person's name and date of birth together, whether used alone or in conjunction with other information, and also includes a person's social security number or other government-issued identification number, whether used alone or in conjunction with other information.

**House Bill 1666**  
**Effective:** 9-1-11

**House Author:** Castro et al.  
**Senate Sponsor:** Watson

House Bill 1666 amends the Penal Code to change the name of the offense of online harassment to online impersonation and to revise the conditions that constitute the offense.

**House Bill 1856**  
**Effective:** 9-1-11

**House Author:** Woolley  
**Senate Sponsor:** Patrick

House Bill 1856 amends the Penal Code to increase the penalty for tampering with a witness from a state jail felony to a third degree felony, except that if the official proceeding is part of the prosecution of a criminal case, the penalty for tampering with a witness is the same category of offense as the most serious offense charged in that criminal case or a first degree felony if the most serious offense is a capital felony. If an actor's conduct constitutes the offense of tampering

with a witness and also constitutes an offense under any other law, the actor may be prosecuted under either law or both laws.

**House Bill 2118**  
**Effective:** 9-1-11

**House Author:** Coleman et al.  
**Senate Sponsor:** Estes et al.

House Bill 2118 amends the Health and Safety Code to add certain synthetic compounds to Penalty Group 2 of the Texas Controlled Substances Act.

**House Bill 2482**  
**Effective:** 9-1-11

**House Author:** Pena et al.  
**Senate Sponsor:** Williams

House Bill 2482 amends the Penal Code to expand the circumstances under which certain theft offenses and organized retail theft offenses are increased to the next higher category of offense for punishment purposes to include activating a fire exit alarm, deactivating or otherwise preventing a fire alarm or retail theft detector from sounding, or using a certain instrument to prevent or attempt to prevent detection of the offense by a retail theft detector, during the commission of the offense. The bill changes the values of merchandise involved in an organized retail theft offense that render the category of offense, ranging from a state jail felony to a first degree felony, and creates the Class B and Class A misdemeanors for organized retail theft.

**House Bill 2577**  
**Effective:** 9-1-11

**House Author:** Miller, Sid  
**Senate Sponsor:** Hegar

House Bill 2577 amends the Penal Code to redesignate the offense of unlawful use of a criminal instrument as unlawful use of a criminal instrument or mechanical security device and to make the conduct that constitutes the offense apply to a mechanical security device in the same manner as it applies to a criminal instrument.

**House Bill 3000**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Van de Putte et al.

House Bill 3000 amends provisions of the Penal Code, Code of Criminal Procedure, and Government Code relating to the creation of the first degree felony offense of continuous trafficking of persons. The bill makes it an offense punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years and less than 25 years to engage two or more times in conduct that constitutes an offense of trafficking of persons during a period that is 30 or more days in duration. A subsequent conviction of the offense is automatically punishable by life without parole. The bill enhances the penalty for a state jail felony to that of a third degree felony if the individual has previously been finally convicted of an offense of continuous trafficking of persons.

House Bill 3000 adds continuous trafficking of persons to the list of offenses for which there is no statute of limitations, bond can only be granted by a judge, certain notice of a bail reduction is required, trial preference is required, and a DNA sample is required, and to the list of offenses considered to be violent offenses for purposes of release on personal bond of certain mentally ill defendants. The bill makes a person convicted of continuous trafficking of persons ineligible for intensive supervision parole, early parole, mandatory supervision, and placement in a halfway house. Release for a person convicted of continuous trafficking of persons requires an extraordinary vote by the board of pardons and parole.

**House Bill 3384**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

Under current law, punishment for certain repeat and habitual felony offenders is enhanced to the next higher category of offense or to a specified prison term and fine, as applicable, if it is shown on the trial of the offense that the defendant has previously been convicted of a felony. House Bill 3384 amends the Penal Code to clarify that the previous final felony conviction that results in such enhancement for a third degree felony, second degree felony, and first degree felony is for a felony other than a state jail felony. The bill clarifies that the two previous final felony convictions that result in a state jail felony being enhanced to a second degree felony and the previous final felony conviction that results in such enhancement for a certain state jail felony punishable as a third degree felony are for felonies other than state jail felonies punishable as such.

**House Bill 3396**  
**Effective:** 9-1-11

**House Author:** Hernandez Luna  
**Senate Sponsor:** Patrick

House Bill 3396 amends the Penal Code to enhance the penalty for breach of computer security from a Class B misdemeanor to a state jail felony if the defendant has been previously convicted two or more times of a computer crime or the computer, computer network, or computer system accessed in committing the offense is owned by the government or a critical infrastructure facility. The bill revises the conduct that constitutes the breach of computer security offense involving defrauding or harming another or altering, damaging, or deleting property and removes the Class A misdemeanor for that specific offense. The bill revises the aggregate amount involved in that specific offense that classifies it as a state jail felony, expands the second degree felony for that offense to include breaching a computer, computer network, or computer system owned by the government or a critical infrastructure facility involving any amount less than \$200,000 or obtaining another person's identifying information by accessing one computer, computer network, or computer system, and expands the first degree felony to include obtaining such information by accessing more than one computer, network, or system. The bill establishes a defense to prosecution for breach of computer security if committed with certain law enforcement-related intent.

**House Bill 3423**  
**Effective:** 9-1-11

**House Author:** Lozano  
**Senate Sponsor:** Hinojosa

House Bill 3423 amends the Penal Code to make provisions relating to the following offenses apply with respect to a federal special investigator: false report to a peace officer or law enforcement employee, evading arrest or detention from a peace officer, and taking or attempting to take a weapon from a peace officer, correctional facility employee or official, parole officer, community supervision and corrections department officer, or commissioned security officer.

**Senate Bill 82**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Gallego et al.

Senate Bill 82 amends the Penal Code to expand the conditions that constitute the offense of stalking to include certain threatening conduct committed against an individual with whom the person against whom the stalking is directed has a dating relationship and removes from those conditions the following of a person. The bill enhances the penalty for stalking from a third degree felony to a second degree felony for a previous conviction of a substantially similar offense under the laws of certain other jurisdictions.

Senate Bill 82 amends the Code of Criminal Procedure to establish venue for the prosecution of a stalking offense and to add provisions relating to evidence in prosecutions for stalking.



**Senate Bill 158**  
**Effective:** 9-1-11

**Senate Author:** Williams  
**House Sponsor:** Fletcher et al.

Senate Bill 158 amends the Health and Safety Code to create the offense of diversion of a controlled substance by registrants, dispensers, and certain other persons and to establish penalties ranging from a state jail felony to a third degree felony. The bill expands the conditions that constitute an offense of fraud under the Texas Controlled Substances Act to include conduct involving obtaining or attempting to obtain a controlled substance or a prescription for such a substance from a practitioner in a certain fraudulent manner, and establishes penalties ranging from a Class A misdemeanor to a second degree felony.

Senate Bill 158 amends the Penal Code to expand the conditions that constitute the offense of engaging in organized criminal activity to include causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of the Medical Practice Act and to revise provisions relating to the admissibility of evidence as mitigation at the punishment hearing for an offense of engaging in organized criminal activity.

**Senate Bill 331**  
**Effective:** 9-1-11

**Senate Author:** Shapiro et al.  
**House Sponsor:** Madden et al.

Senate Bill 331 amends the Health and Safety Code to add Penalty Group 2-A, consisting of certain synthetic cannabinoids, to the Texas Controlled Substances Act and expands the offense of manufacturing or delivering a substance in Penalty Group 2 to include Penalty Group 2-A substances. The bill creates the offense of possession of a Penalty Group 2-A substance, establishes penalties ranging from a Class B misdemeanor to imprisonment in the Texas Department of Criminal Justice for life or for a certain other specified term and a fine not to exceed \$50,000, depending on the amount by aggregate weight of the controlled substance possessed, and enhances the penalty for non-misdemeanor offenses committed on specified premises considered drug-free zones.

Senate Bill 331 amends the Code of Criminal Procedure to include certain possession of a Penalty Group 2-A substance offenses among the offenses for which a peace officer may issue a citation instead of taking the offender before a magistrate and for which a judge must suspend the imposition of the sentence and place the defendant on community supervision, with certain exceptions.

**Senate Bill 377**  
**Effective:** 9-1-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Riddle et al.

Senate Bill 377 amends the Penal Code to change from under six years of age to under 10 years of age the age of a murdered individual that classifies a murder offense as capital murder.

**Senate Bill 407**  
**Effective:** 9-1-11

**Senate Author:** Watson et al.  
**House Sponsor:** Craddick et al.

Senate Bill 407 amends provisions of the Penal Code, the Education Code, the Code of Criminal Procedure, and the Family Code relating to the offense of electronic transmission of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense. The bill creates the Class C misdemeanor of electronic transmission of certain visual material depicting a minor if a person younger than 18 years of age intentionally or knowingly by electronic means promotes to another minor visual material depicting a minor engaging in sexual conduct under certain circumstances or intentionally or knowingly possesses in an electronic format visual material depicting another minor engaging in sexual conduct under certain circumstances. The bill establishes penalty enhancements based on



certain intent and on previous convictions of the offense and establishes an affirmative defense to prosecution and general defense to prosecution for the offense.

Senate Bill 407 sets out certain court procedures, including requiring a family court to waive its original jurisdiction and refer a defendant younger than 18 years of age to juvenile court if the complaint pending against the child alleges the offense of electronic transmission of certain visual material depicting a minor. The bill provides for the confidentiality of evidence depicting or describing sexual conduct by a child or minor relating to the offense or described in certain child testimony, provides for the discovery of that evidence, and entitles certain first time offenders and juveniles found to have engaged in conduct relating to the offense to expunction, or sealing, as applicable, of records relating to the offense. The bill requires the Texas School Safety Center, in consultation with the office of the attorney general, to develop educational programs on the dangers of students sharing visual material depicting a minor engaged in sexual conduct, sets out the issues that such programs must address, and requires each school district annually to provide or make available information on the programs to parents and students as appropriate. A court may require the attendance and successful completion by a defendant or child found to have committed the offense of such an educational program or an equivalent program.

Senate Bill 407 establishes a defense to prosecution for the offense of tampering with or fabricating physical evidence and for possession or promotion of child pornography with respect to visual material possessed under the offense of electronic transmission of certain visual material depicting a minor.

**Senate Bill 431**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Smith, Wayne

Senate Bill 431 amends the Penal Code to make it a Class C misdemeanor for a person to use or claim to hold a military record that the person knows is fraudulent, is fictitious or has otherwise not been granted or assigned to the person, or has been revoked either in a written or oral advertisement or other promotion of business, or with the intent to do the following: obtain priority in receiving job training and employment services or resources under applicable provisions of the Labor Code; qualify for a veteran's employment preference under applicable provisions of the Government Code; obtain a license or certificate to practice a trade, profession, or occupation; obtain a promotion, compensation, or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation; obtain a benefit, service, or donation from another person; obtain admission to an educational program in the state; or gain a position in state government with authority over another person, regardless of whether the actor receives compensation for the position.

**Senate Bill 485**  
**Effective:** 9-1-11

**Senate Author:** Huffman  
**House Sponsor:** Carter

Senate Bill 485 amends the Code of Criminal Procedure to authorize the prosecution of any criminal fraud offense involving a real estate transaction either in the county where the property is located or in any county in which part of the transaction occurred, including the generation of documentation supporting the transaction. The bill authorizes the prosecution of an offense of securing execution of any document by deception, an offense of simulating legal process, or an offense of refusal to execute the release of a fraudulent lien or claim that involves a real estate transaction in the county from which any material document was sent or in the county in which such a document was delivered.

**Senate Bill 496**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Hilderbran et al.

Under current law, the penalty for evading arrest or detention is enhanced if the actor uses a vehicle while in flight. Senate Bill 496 amends the Penal Code to expand the enhancement to include the use of a watercraft while in flight.

**Senate Bill 544**  
**Effective:** 9-1-11

**Senate Author:** Seliger et al.  
**House Sponsor:** Shelton

Senate Bill 544 amends provisions of the Human Resources Code and Penal Code relating to unlawful acts against and criminal offenses involving the Medicaid program. The bill expands the circumstances under which a person commits such an unlawful act or a Medicaid fraud offense to include knowingly causing a certain fraudulent claim to be made, and revises the minimum and maximum amounts of the civil penalty for which a person who commits such an unlawful act is liable to the state when the act results in injury to an elderly person, a disabled person, or a person younger than 18 years of age and when the act does not result in such injury. The bill expands the circumstances under which a court's determination of expenses, fees, and costs awarded to a private plaintiff in a private Medicaid fraud action is required to be made, limits the circumstances under which a person is prohibited from bringing a private Medicaid fraud action based on certain public disclosure of allegations or transactions, and requires a court, before dismissing certain barred private actions, to give the attorney general an opportunity to oppose the dismissal. The bill expands the circumstances under which a person is entitled to reinstatement and back pay for employer retaliation against the person because of a lawful act taken by the person in furtherance of a private Medicaid fraud action.

**Senate Bill 688**  
**Effective:** 9-1-11

**Senate Author:** Nichols et al.  
**House Sponsor:** Creighton et al.

Senate Bill 688 amends provisions of the Code of Criminal Procedure, Government Code, and Penal Code relating to the investigation, prosecution, and punishment of criminal Medicaid fraud and certain other related offenses. The bill removes exploitation from the conduct that constitutes the offense of injury to a child, elderly individual, or disabled individual and creates the third degree felony of exploitation of a child, elderly individual, or disabled individual. The bill sets out provisions relating to the prosecution of such an exploitation offense when it is also punishable under another offense and requires sentences assessed under both offenses to run concurrently. The bill provides the attorney general concurrent jurisdiction with the appropriate local prosecutor to prosecute an exploitation offense or Medicaid fraud offense that involves the Medicaid program and provides for the confidentiality of all information and materials subpoenaed or compiled by the office of the attorney general in connection with a Medicaid fraud investigation.

Senate Bill 688 expands the conduct that constitutes the third degree felony and second degree felony Medicaid fraud offenses to include the submission of a specified number of fraudulent claims under the Medicaid program that constitute Medicaid fraud and authorizes the prosecution of Medicaid fraud that also constitutes another offense to be under both offenses. The bill enhances the punishment prescribed for a Medicaid fraud offense, other than a first degree felony, to the punishment prescribed for the next highest category of offense if the actor was a provider or high managerial agent at the time of the offense, includes Medicaid fraud committed with certain gang-related intent in the conduct that constitutes the offense of engaging in organized criminal activity, and sets the statute of limitations for Medicaid fraud at seven years. The bill provides for the offering of evidence relating to pecuniary loss to the Medicaid program during the punishment phase of a Medicaid offense and sets out provisions relating to such testimony.

**Senate Bill 844**  
**Effective:** 9-1-11

**Senate Author:** Patrick  
**House Sponsor:** Hunter et al.

Senate Bill 844 amends the Penal Code to expand the conditions that constitute the offense of escape from custody to include escaping from custody while lawfully detained for an offense.

**Senate Bill 887**  
**Effective:** 9-1-11

**Senate Author:** Carona et al.  
**House Sponsor:** Riddle et al.

Senate Bill 887 amends the Penal Code to make theft of an automated teller machine or the contents or components of an automated teller machine that are valued at less than \$200,000 a second degree felony.

**Senate Bill 1024**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Rodriguez

Senate Bill 1024 amends the Penal Code to specify that the intent to avoid payment for a service, for purposes of a theft of service offense involving agreeing to provide compensation for a service with that intent and failing to make full payment after service is rendered and a notice for payment is received, may be formed at any time during or before a pay period, if the compensation is or was to be paid on a periodic basis, and that the partial payment of wages alone is not sufficient evidence to negate the actor's intent to avoid payment for a service.

**Senate Bill 1043**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Martinez

Senate Bill 1043 amends the Health and Safety Code to make it an offense if a person discards lighted litter onto open-space land, a public or private road, the right-of-way of a public or private road, or a railroad right-of-way and a fire is ignited as a result of that conduct. The penalty for the offense depends on the weight or volume of the discarded litter. The bill establishes an affirmative defense to prosecution in connection with the offense and provides for prosecution of the offense under the Penal Code, as applicable. The bill also includes related signage requirements for the operator of a public conveyance in which smoking tobacco is allowed.

**Senate Bill 1103**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Carter et al.

Senate Bill 1103 amends the Code of Criminal Procedure to clarify the venue for prosecution of a theft offense in which property is stolen in one county and removed to another county.

**Senate Bill 1416**  
**Effective:** 9-1-11

**Senate Author:** Hinojosa et al.  
**House Sponsor:** Gallego et al.

Senate Bill 1416 amends the Penal Code to make it a state jail felony prohibited weapons offense to intentionally or knowingly possess, manufacture, transport, repair, or sell a tire deflation device and to establish defenses to prosecution for the offense relating to the use of such a device. The bill enhances the penalty for evading arrest or detention from a Class A misdemeanor to a third degree felony if the actor uses a tire deflation device while in flight and to a second degree felony if another suffers serious bodily injury as a direct result of that use. The bill makes the enhanced penalty for evading arrest or detention involving the use of a vehicle while in flight a third degree felony, rather than a state jail felony.

## Procedures

**House Bill 351**  
**Effective:** 9-1-11

**House Author:** Veasey  
**Senate Sponsor:** West

House Bill 351 amends the Code of Criminal Procedure to extend the entitlement to have all records and files relating to an arrest expunged to a person who has been arrested for, tried for, and convicted of a felony or misdemeanor and subsequently granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates such reason for relief. Among other provisions, the bill revises the conditions that must be met for a released person to be entitled to expunction and prohibits the expunction of records relating to certain arrests and absconders. In addition to revising certain general expunction procedures, the bill establishes procedures for a trial court or district court, as applicable, and the attorney for the state in entering and preparing an expunction order for a convicted person entitled to expunction following a grant of relief or pardon on the basis of actual innocence and requires the court to retain certain documents relating to the person until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person.

**House Bill 371**  
**Effective:** 9-1-11

**House Author:** Hochberg et al.  
**Senate Sponsor:** Hegar

House Bill 371 amends the Code of Criminal Procedure to prohibit a judge from granting deferred adjudication to a defendant 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.

**House Bill 748**  
**Effective:** 9-1-11

**House Author:** Menendez et al.  
**Senate Sponsor:** Van de Putte

House Bill 748 amends provisions of the Code of Criminal Procedure relating to a criminal defendant's incompetency to stand trial, certain related time credits, and the maximum period allowed for restoration of the defendant to competency. The bill revises the periods that a convicting or sentencing court, as applicable, is required to credit to a convicted person's sentence term, specifies the beginning date of and the time included in the calculation of the maximum cumulative period allowed for a defendant's commitment to a mental hospital or other inpatient or residential facility or outpatient treatment program participation for restoration to competency, and provides for certain time credits to that cumulative period. The bill revises procedures for the mandatory dismissal of misdemeanor charges when a defendant is not tried before the expiration of the maximum period of restoration.

House Bill 748 amends the Health and Safety Code to add an alternative expiration date for an order authorizing the administration of psychoactive medication to a patient who is returned to a correctional facility and awaiting trial in a criminal proceeding.

**House Bill 976**  
**Effective:** 6-17-11

**House Author:** Carter et al.  
**Senate Sponsor:** Carona

House Bill 976 amends the Code of Criminal Procedure to authorize a person, when making oath before a magistrate that another has committed an offense, for purposes of the magistrate issuing an arrest warrant or summons, to appear before the magistrate in person or by means of the person's image being presented to the magistrate through an electronic broadcast system. The bill requires a recording of the communication between the person and the magistrate to be made if the person's image is presented through an electronic broadcast system, requires the

recording to be preserved for a specified period if the defendant is charged with the offense, and authorizes the defendant's counsel to obtain a copy of the recording on appropriate payment.

**House Bill 1106**  
**Effective:** 9-1-11

**House Author:** Johnson  
**Senate Sponsor:** West

House Bill 1106 amends the Code of Criminal Procedure to require a court, before placing a defendant on deferred adjudication community supervision, to inform the defendant of the defendant's right to petition the court for an order of nondisclosure unless the defendant is ineligible for certain reasons. The bill requires a judge who dismisses proceedings against a defendant and discharges the defendant under deferred adjudication to provide the defendant with a copy of the dismissal and discharge order and, if applicable, inform the defendant of the defendant's eligibility to petition the court for an order of nondisclosure and the earliest date the defendant is eligible to file the petition for the order of nondisclosure.

**House Bill 1113**  
**Effective:** 9-1-11

**House Author:** Raymond et al.  
**Senate Sponsor:** Zaffirini

House Bill 1113 amends the Code of Criminal Procedure to authorize a judge, under certain circumstances, 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 and to receive at a secondary school a plea of guilty or nolo contendere from such a defendant and place the defendant on deferred adjudication community supervision. The bill authorizes a judge to allow a defendant placed on community supervision for a controlled substance offense to perform community outreach in lieu of hours of community service, provides a description of the outreach, and sets out restrictions relating to outreach participation.

**House Bill 1173**  
**Effective:** 9-1-11

**House Author:** Riddle  
**Senate Sponsor:** Huffman

House Bill 1173 adds temporary provisions, set to expire September 1, 2013, to the Code of Criminal Procedure to require the release on bond within 36 hours of the arrest of a person who, in a county with a population of three million or more, is arrested without a warrant for a misdemeanor and detained in jail, if a magistrate has not determined whether probable cause exists to believe that the person committed the offense. The bill requires each such county to conduct an impact study to determine the impact of this requirement on the county's ability to control and process its misdemeanor caseload, lists the statistics required to be assessed in the study, and requires each county to file the study with its commissioners court and certain legislative committees with criminal justice oversight and make the study's results available to the public.

**House Bill 1573**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Carona

House Bill 1573 amends provisions of the Code of Criminal Procedure relating to certain pretrial and post-trial procedures and testing in a criminal case. Among other provisions, the bill changes the deadline for certain courts for posting notice of a criminal court docket setting in the courthouse, prohibits a grand jury indictment from being made public under certain circumstances, and revises the information required to be included in an ex parte petition for an expunction of records. The bill revises the evidence criteria for a motion by a convicted person for forensic DNA testing of evidence containing biological material and requires a convicting court, if an analyzed DNA sample meets the applicable requirements of state or federal submission policies and on completion of the DNA testing, to order any unidentified DNA profile to be



compared with the DNA profiles in the DNA databases of the FBI and the Department of Public Safety.

**House Bill 1646**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Ellis

House Bill 1646 amends the Code of Criminal Procedure to require the convicting court in a death penalty case, if the convicting court receives notice that state law requirements for consideration of a subsequent application for a writ of habeas corpus have been met and if the applicant has not elected to proceed pro se and is not represented by retained counsel, to appoint certain specified counsel based on the defendant's representation in the subsequent application proceeding. The bill provides for the compensation and reimbursement of expenses for such appointed counsel.

**House Bill 1658**  
**Effective:** 9-1-11

**House Author:** Davis, Yvonne  
**Senate Sponsor:** Whitmire

House Bill 1658 amends the Code of Criminal Procedure to clarify that any cash funds deposited for a bail bond and refunded after a defendant's compliance with the bond conditions are to be refunded 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 to the defendant, if no other person is able to produce a receipt for the funds.

**House Bill 2725**  
**Effective:** 9-1-11

**House Author:** Hartnett  
**Senate Sponsor:** Williams et al.

House Bill 2725 amends provisions of the Code of Criminal Procedure relating to the determination of a criminal defendant's incompetency to stand trial. The bill clarifies the threshold requirement for a court's informal inquiry into the existence of evidence that a defendant may be incompetent. The bill revises the periods that a convicting or sentencing court, as applicable, is required to credit to a convicted person's sentence term, specifies the beginning date of and the time included in the calculation of the maximum cumulative period allowed for a defendant's commitment to a mental hospital or other inpatient or residential facility or outpatient treatment program participation for restoration to competency, and provides for certain time credits to that cumulative period. The bill revises procedures for the mandatory dismissal of misdemeanor charges when a defendant is not tried before the expiration of the maximum period of restoration.

House Bill 2725 revises the conditions that qualify a psychiatrist or psychologist for appointment as an expert for purposes of examining or testifying as to a defendant's competency or incompetency, the factors that an expert must consider during the examination, and the required contents of an expert's report regarding the examination. Among other provisions, the bill sets out procedures for a court on a determination that a defendant is incompetent to stand trial and is unlikely to be restored to competency in the foreseeable future, clarifies the applicability of certain laws relating to incompetency, and sets out procedures for a court on receiving credible evidence indicating a defendant's immediate restoration after the incompetency trial. The bill revises provisions relating to a facility's and treatment program's duties in evaluating a defendant for competency restoration purposes and in notifying and reporting to the applicable court regarding the evaluation and provisions relating to a court's extension of an initial restoration period and determination of competency. The bill requires the Department of State Health Services to study and report to the legislature the feasibility of providing certain services to certain persons with mental illness and multiple inpatient commitments.

**House Bill 2847**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 2847 amends the Code of Criminal Procedure to authorize a peace officer summoned to testify before a grand jury, with the consent of the foreman of the grand jury and the attorney representing the state, to testify through the use of a closed circuit video teleconferencing system that meets certain requirements. The bill requires certain affirmations from the peace officer, provides for the recording of the officer's testimony, and sets out provisions relating to the person operating a video teleconferencing system in a grand jury room during proceedings and to the record of a plea made through closed circuit video teleconferencing. Additionally, the bill authorizes any deposition or testimony of an inmate witness in custody of the Texas Department of Criminal Justice who is required to testify in a criminal proceeding to be conducted by a closed circuit video teleconferencing system, rather than by electronic means in the same manner as civil cases.

**House Bill 2889**  
**Effective:** Vetoed

**House Author:** Madden  
**Senate Sponsor:** Hinojosa

House Bill 2889 amends the Code of Criminal Procedure to expand the circumstances under which a person who has been arrested for commission of a felony or misdemeanor and subsequently released is entitled to expunction of all arrest records and files.

Reason Given for Veto: "House Bill 2889 creates a potential conflict with other bills related to the expunction of a person's arrest in a criminal history record. The author of House Bill 2889 has requested a veto to avoid this conflict."

**Senate Bill 122**  
**Effective:** 9-1-11

**Senate Author:** Ellis et al.  
**House Sponsor:** Gallego et al.

Senate Bill 122 amends the Code of Criminal Procedure to revise the evidence criteria for a motion by a convicted person for forensic DNA testing of evidence containing biological material and requires a convicting court, if an analyzed DNA sample meets the applicable requirements of state or federal submission policies and on completion of the DNA testing, to order any unidentified DNA profile to be compared with the DNA profiles in the DNA databases of the FBI and the Department of Public Safety.

**Senate Bill 167**  
**Effective:** Vetoed

**Senate Author:** West  
**House Sponsor:** Veasey et al.

Senate Bill 167 amends the Code of Criminal Procedure to extend the entitlement to have all records and files relating to an arrest expunged to a person who has been arrested for, tried for, and convicted of a felony or misdemeanor and subsequently granted relief on the basis of actual innocence with respect to that offense. The bill establishes procedures for the appropriate court to enter such an expunction order, requires the attorney for the state to prepare the order for the court's signature and notify the Texas Department of Criminal Justice (TDCJ) if the person is in TDCJ custody, and sets out the required contents of the expunction order. The bill requires the court to retain certain documents sent from TDCJ relating to the person subject to the expunction order until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person.

Reason Given for Veto: "Senate Bill 167 suffers from technical citation problems and a need to correct language. House Concurrent Resolution 177, which sought to correct the problems in Senate Bill 167, did not pass both houses. The intent of Senate Bill 167 is covered in House Bill 351."

**Senate Bill 316**  
**Effective:** 9-1-11

**Senate Author:** Whitmire et al.  
**House Sponsor:** Gallego

Senate Bill 316 amends the Code of Criminal Procedure to revise certain procedures for the seizure of criminal contraband subject to forfeiture and for the disposition of proceeds and property from criminal asset forfeiture. Among other provisions, the bill establishes procedures for the disposition and allocation by the attorney representing the state of forfeited property seized in connection with a violation of the Texas Controlled Substances Act, expands the purposes for which the head of a local law enforcement agency and an attorney representing the state are prohibited from using proceeds or property received from contraband forfeiture, and authorizes those officials to use such proceeds or property to make a donation to certain entities. The bill establishes provisions relating to an audit and investigation by the state auditor regarding the seizure, forfeiture, receipt, and specific expenditure of proceeds and property received from contraband forfeiture and to the enforcement of such an audit and investigation and provides for the assessment of a civil penalty not to exceed \$100,000 for a violation relating to the disposition of such proceeds or property.

Senate Bill 316 amends provisions of the Government Code relating to the authority of the district attorney for the 198th Judicial District to use proceeds from the sale of forfeited property for purposes of the district attorney's office.

**Senate Bill 462**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Veasey et al.

Senate Bill 462 amends the Code of Criminal Procedure to revise the conditions that must be met for a person who has been arrested for commission of a felony or misdemeanor and subsequently released to be entitled to expunction of arrest records and files and to prohibit the expunction of records relating to certain arrests and absconders. The bill requires a court to provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of certain persons who become entitled to expunction of records based on the expiration of certain established waiting periods.

**Senate Bill 578**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Hartnett et al.

Senate Bill 578 amends the Code of Criminal Procedure to establish requirements and guidelines relating to a child's testimony in a hearing or proceeding in the prosecution of any offense, other than the testimony of a child in a hearing or proceeding in a criminal case in which that child is the defendant. The bill requires a court to administer an oath to a child in a manner that allows the child to fully understand the duty to tell the truth, ensure that questions asked of a child are in a language that is age appropriate, explain to a child the child's right to notify the court if the child is unable to understand a question and to have the question restated in a form that is understandable, ensure that a child testifies only at a time of day when the child is best able to understand the questions and to undergo proceedings without being traumatized, and prevent intimidation and harassment of a child by any party.

Senate Bill 578 requires the court, on the motion of any party, to allow a child to have a comforting item in the child's possession while testifying or allow a supporting person to be present in close proximity to the child during testimony, if the court finds by a preponderance of the evidence that the child cannot reliably testify without the possession of the item or the presence of the support person and that granting the motion is not likely to prejudice the trier of fact in evaluating the child's testimony. The bill prohibits a support person from obscuring a child from the view of the defendant or the trier of fact, providing a child with an answer to any

question, or assisting or influencing a child's testimony. The bill authorizes the court to set any other conditions and limitations on the taking of the testimony of a child.

**Senate Bill 877**  
**Effective:** 5-19-11

**Senate Author:** Hinojosa  
**House Sponsor:** Gallego

Current law authorizes a surety to discharge the surety's liability on a bail bond by delivering to the sheriff of the county in which the prosecution is pending an affidavit stating that the accused is incarcerated in federal custody, in the custody of any state, or in any Texas county. Senate Bill 877 amends the Code of Criminal Procedure to require the surety to also deliver the affidavit to the office of the prosecuting attorney. The bill requires the county sheriff to verify whether the accused is incarcerated as stated in the affidavit and, if the affidavit is verified, to notify the magistrate before which the prosecution is pending of the verification. The bill requires the sheriff, on such verification, to place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated and requires the magistrate to direct the clerk of the court to issue a *capias* for the arrest of the accused, with certain exceptions. The bill makes the surety liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the county sheriff.

**Senate Bill 882**  
**Effective:** 6-17-11

**Senate Author:** Whitmire  
**House Sponsor:** Madden et al.

Senate Bill 882 amends the Code of Criminal Procedure to require a personal bond pretrial release office to file, rather than post, in the county court clerk's office in any county served by the office a copy of the record containing information about any accused person who, after review by the personal bond office, is released by a court on personal bond.

**Senate Bill 1522**  
**Effective:** 9-1-11

**Senate Author:** Hinojosa  
**House Sponsor:** Madden et al.

Current law requires a court to accept, under certain circumstances, a written plea of guilty or *nolo contendere* from a defendant who is confined in a penal institution. Senate Bill 1522 amends the Code of Criminal Procedure to clarify that this requirement includes a written plea delivered by United States mail or by secure electronic or facsimile transmission and to require a court, before accepting such a written plea, 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 such a defendant.

**Senate Bill 1616**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Gallego et al.

Senate Bill 1616 expands Code of Criminal Procedure provisions relating to the preservation of certain evidence containing biological material in a criminal case in which a defendant is convicted to include requirements relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence, defined as the contents of a sexual assault examination kit or certain specified identifiable biological material collected as part of an investigation of an alleged felony offense or conduct by a juvenile constituting a felony offense that might reasonably be used to establish the identity of the offender or to exclude a person from the group of offenders. The bill requires 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 to ensure that biological evidence collected pursuant to an investigation or prosecution of a felony offense or conduct constituting a felony offense is retained and preserved

for specified periods. The bill establishes the periods based on the existence of an unapprehended actor associated with the offense or certain factors relating to the defendant's death, completion of a sentence, term of community supervision, or term of juvenile probation, or release on parole, mandatory supervision, or juvenile probation. The Department of Public Safety must adopt, not later than September 1, 2012, standards and rules relating to the collection, storage, preservation, and retrieval of biological evidence and must consult with certain law enforcement agencies, law enforcement associations, scientific experts, and organizations in adopting the initial standards and rules. An entity or individual charged with the collection, storage, preservation, analysis, or retrieval of biological evidence is not required to comply with the adopted standards and rules before January 1, 2013.

**Senate Bill 1680**

**Effective:** 9-1-11

**Senate Author:** Ellis

**House Sponsor:** Murphy

Senate Bill 1680 amends the Code of Criminal Procedure to specify that the attorney representing the state in trials involving an allegation of a continuing scheme of fraud or theft that involves Medicaid or Medicare benefits committed with respect to a large class of Medicaid or Medicare recipients in an aggregate amount or value is not required to prove by direct evidence that each recipient did not consent or effectively consent to a transaction in question. The bill authorizes a court to order the attorney representing the state to take the deposition of a Medicare or Medicaid recipient or caregiver who is the alleged victim of or witness to an offense constituting fraud or theft that involves Medicaid or Medicare benefits and authorizes the deposition to be taken by video recording. The bill establishes provisions relating to offering a recorded deposition into evidence and extending the deadline for taking a recipient's or caregiver's deposition and also provides for the rules governing the taking of the deposition. The bill provides for the taking of the deposition of a defendant unable to attend the deposition due to confinement in a correctional facility or any other reason.

**Senate Bill 1681**

**Effective:** 9-1-11

**Senate Author:** Ellis

**House Sponsor:** Thompson et al.

Senate Bill 1681 amends provisions of the Code of Criminal Procedure relating to the appointment of counsel and the rights of an accused and other requirements for appellate proceedings and community supervision revocation proceedings. The bill expands the applicability of procedures for appointing counsel to defend an indigent defendant in a criminal proceeding to also apply to the appointment of counsel to appeal such a defendant's conviction. The bill provides for the graduation of multiple public appointment lists of attorneys qualified to provide indigent representation, and of specified qualifications for such representation under an alternative program for appointing counsel, according to whether representation will be provided in trial court proceedings, appellate proceedings, or both. The bill establishes the responsibilities of an appointed attorney with respect to a defendant not represented by other counsel before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty.

Senate Bill 1681 sets out provisions relating to the taking of a person arrested for a violation of a condition of community supervision before the judge who ordered the arrest or a magistrate of the county in which the person was arrested, and to the powers and duties of the judge or magistrate with respect to the arrest.



**The summaries for the following bills are in the listed chapters:**

House Bill 530 - Law Enforcement  
House Bill 994 - Courts  
House Bill 1205 - Corrections  
House Bill 1610 - Public Education  
House Bill 1771 - Courts  
House Bill 2966 - Open Government and Privacy  
Senate Bill 198 - Corrections  
Senate Bill 279 - Family Law  
Senate Bill 480 - Courts  
Senate Bill 483 - Courts

# Economic Development

This chapter covers legislation affecting state and local economic development, including legislation on job creation, economic incentive funds, and reinvestment and enterprise zones. Legislation relating to economic development authorities and districts is in the **Special Districts** chapter, and legislation relating to workforce development is in the **Labor and Employment** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 2457**

**Effective:** 9-1-11

**House Author:** Davis, John et al.

**Senate Sponsor:** Jackson et al.

House Bill 2457 amends Government Code provisions relating to the Texas Enterprise Fund and the Texas emerging technology fund. The bill sets a deadline by which the lieutenant governor or speaker of the house of representatives must approve a proposal by the governor to award money from either fund to avoid the proposal being considered disapproved, authorizes the lieutenant governor or speaker of the house to extend that deadline by submitting written notice to the governor, and establishes requirements relating to a Texas emerging technology fund grant agreement. The bill revises the required contents, recipients, and submission deadline of the governor's annual report on the Texas emerging technology fund and 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 Texas, in companies receiving awards under the fund and of other investments made by the governor, on behalf of Texas, in connection with an award under the fund. The bill establishes provisions relating to the Texas Emerging Technology Advisory Committee regarding membership appointments, member financial statements, and member terms, and lists the information that each entity recommended by the committee for an award of money from the fund is required to obtain and provide to the office of the governor. The bill revises confidentiality provisions regarding information collected in relation to an individual or entity being considered for, receiving, or having received an award from the fund and establishes a list of information collected by the governor's office, the committee, or the committee's advisory panels that is considered public information and may be disclosed under the state's open records law. The bill establishes provisions requiring each regional center of innovation and commercialization to keep and retain minutes of each meeting at which applications for awards under the fund are evaluated.

House Bill 2457 amends the Labor Code to prohibit money in the unemployment compensation fund from being transferred to the Texas Enterprise Fund or the Texas emerging technology fund and makes conforming changes.

### **House Bill 2785**

**Effective:** 9-1-11

**House Author:** Davis, John et al.

**Senate Sponsor:** Shapiro

House Bill 2785 creates the Select Committee on Economic Development to recommend to the legislature an economic development policy for the state and perform certain other duties. The committee is composed of eight public members and four legislative members appointed by the governor, lieutenant governor, and speaker of the house of representatives, as appropriate. The bill requires the committee to submit a report and provides for the staffing, funding, and abolishment of the committee.

**Senate Bill 309**  
**Effective:** 4-29-11

**Senate Author:** Harris  
**House Sponsor:** Patrick

Senate Bill 309 amends the law relating to the payment of state and municipal or county obligations from the Major Events trust fund by redefining “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, the Republican National Committee, or the Democratic National Committee. The bill requires the comptroller of public accounts to complete a study in the market area of an event eligible for disbursements from the Major Events trust fund on the measurable economic impact directly attributable to the event and related activities.

**Senate Bill 977**  
**Effective:** 5-28-11

**Senate Author:** Hinojosa  
**House Sponsor:** Torres

Senate Bill 977 amends the Government Code to require the comptroller of public accounts to deposit eligible taxable proceeds that were collected by or forwarded to the comptroller in relation to a qualified hotel project under the Texas Enterprise Zone Act, and to which the project is entitled under an agreement entered into by a governmental body to rebate, refund, or pay such proceeds to the owner of the project where the proceeds were generated, in trust in a separate suspense account of the project. The bill authorizes the comptroller to make a rebate, refund, or authorized payment without the need for an appropriation and requires the comptroller to rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled at least quarterly.

Senate Bill 977 amends Tax Code provisions relating to tax refunds of the state sales and use tax for enterprise projects to require the comptroller to deposit the taxes paid or collected by a qualified hotel project or business located in the project in a separate suspense account of the qualified project, with the authorization to rebate, refund, or pay such tax proceeds without an appropriation but with the requirement to rebate, refund, or pay those proceeds at least monthly.

Senate Bill 977 also includes a municipality with a population of 250,000 or more that is located wholly or partly on a barrier island that borders the Gulf of Mexico, is located in a county with a population of 300,000 or more, and has adopted a capital improvement plan to expand an existing convention center facility among eligible central municipalities allowed to use revenue from the municipal hotel occupancy tax for hotel convention center projects that meet certain criteria.

**Senate Bill 988**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Larson et al.

Senate Bill 988 amends the Government Code to establish the Cybersecurity, Education, and Economic Development Council to conduct an interim study and make recommendations to the executive director of the Department of Information Resources regarding improving the infrastructure of Texas’ cybersecurity operations with existing resources and through partnerships between government, business, and institutions of higher education and regarding examining specific actions to accelerate the growth of cybersecurity as an industry in Texas. The council is abolished September 1, 2013.

## Local Economic Development

**House Bill 397**  
**Effective:** Vetoed

**House Author:** Gonzales, Veronica et al.  
**Senate Sponsor:** Uresti et al.

House Bill 397 amends the Government Code to create the Bureau for Economic Development of the Border Region to facilitate research in fields of study affecting the economy in the border region and perform certain other duties. The bureau would be administered by certain institutions of higher education and have an appointed steering committee. Funding for the bureau would be from pledges, gifts, or endowments.

Reason Given for Veto: “House Bill 397 would create a new Bureau for Economic Development of the Border Region. The administration of this bureau would rotate every two years among a private university and five public universities. This legislation does not provide any additional funding to the institutions of higher education to administer this bureau, and would therefore put a fiscal burden on the universities, potentially redirecting their funds away from their primary purpose of education.

“In addition, several state organizations, both public and private, currently perform similar economic development functions, and there are tools in place to encourage job creation throughout the state, including the border region. This bureau is an unfunded mandate on institutions of higher education and duplicates the work several other organizations already perform.”

**House Bill 479**  
**Effective:** 6-17-11

**House Author:** Orr  
**Senate Sponsor:** Birdwell

House Bill 479 amends the Local Government Code to authorize the board of directors of a Type A or Type B economic development corporation, if the corporation’s authorizing municipality is located in a county with a population of less than 30,000, to conduct a board meeting outside the boundaries of the authorizing municipality but within the boundaries of the county.

**House Bill 990**  
**Effective:** Vetoed

**House Author:** Rodriguez  
**Senate Sponsor:** Watson

House Bill 990 amends the Local Government Code to establish the composition of the board of directors of a homestead preservation reinvestment zone in a municipality with a population of 1.18 million or more located predominantly in a county that has a total area of less than 1,000 square miles that has adopted an urban land bank demonstration program. The bill establishes procedures for the appointment of board members and the election of board officers, the process for filling a board vacancy, eligibility requirements for appointment to the board, and the powers and duties of the board. The bill removes the requirement that a final order adopted by an applicable county to create a homestead preservation reinvestment zone designated by municipal ordinance specify an amount of tax increment to be deposited by the county into the tax increment fund equal to the amount of the tax increment specified by an applicable municipality before the zone can take effect. The bill makes the amount the county is required to pay into the tax increment fund for a homestead preservation reinvestment zone the same percentage of the tax increment produced by the county that the municipality pays into the fund.

Reason Given for Veto: “House Bill 990 would change the terms by which Travis County may participate in a homestead preservation reinvestment zone with the City of Austin in East Austin. Although the stated purpose of House Bill 990 is to encourage Travis County to participate in the zone, the county has not expressed support for the bill.

“This bill would exempt Travis County from regulations established for reinvestment zones under Chapter 311 of the Tax Code by allowing the county to exceed the 15-person limit set for reinvestment zone boards and reducing the share of tax revenues the county must contribute to the zone fund.

“The purpose of a reinvestment zone is to provide financial avenues for redevelopment in blighted areas, yet the zone in question is not in a blighted area.”

**House Bill 1040**  
**Effective:** 6-17-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 1040 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 bill’s effective date 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. The bill also validates and confirms the levy and collection of a two percent increase in the local hotel occupancy tax for a venue project that occurred before the bill’s effective date. The bill makes such validation and confirmation inapplicable to a matter that has been held invalid by a court or that may be held invalid as a result of litigation pending on the bill’s effective date or to a governmental act or proceeding that would constitute a criminal offense.

The bill amends the Local Government Code to authorize the governing body of each political subdivision that created a venue district wholly located in a county with a population of less than 15,000 to dissolve the district by adopting a concurrent order. The bill also provides for the disposition of the assets and liabilities of a district so dissolved.

**House Bill 2853**  
**Effective:** 6-17-11

**House Author:** Davis, John et al.  
**Senate Sponsor:** Jackson

House Bill 2853 amends Tax Code provisions governing the use of tax increment financing by local governments. The bill expands the types of project costs that are eligible for financing under the Tax Increment Financing Act; provides for the designation of an area that is undeveloped and meets other criteria as a reinvestment zone; and eases restrictions on the percentage of residential property or the total appraised value of taxable property in a proposed reinvestment zone that otherwise preclude the area’s designation as such.

House Bill 2853 removes a requirement for the governing body of a municipality or county, before officially designating a reinvestment zone, to send a copy of the completed plan to the governing body of each taxing unit that levies taxes on real property in the proposed zone and authorizes the governing body of the municipality or county that designated such a zone to extend the term of all or part of the zone after notice and hearing in the manner provided for the zone’s designation. The bill exempts a taxing unit other than the municipality or county that designated the zone from required participation in the zone or part of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

House Bill 2853 makes a taxing unit’s appointment of a member to a reinvestment zone’s board of directors contingent on the taxing unit’s approval of the payment of all or part of the tax increment produced by that unit into the zone’s tax increment fund. The bill clarifies the appointing authority of the municipality or county that designated the reinvestment zone based on the number of taxing units eligible to appoint members to the board and clarifies the qualifications required for an individual’s appointment to the board.

House Bill 2853 authorizes the governing body of the municipality or county that designated a zone to grant its approval for the board’s establishment of certain programs in a municipal ordinance or a county order, as applicable, approving a project plan or reinvestment zone financing plan or approving an amendment to such a plan. The bill amends the required content of a project plan and a reinvestment financing plan and establishes that all amounts contained in either plan are considered estimates, unless otherwise specifically provided, and do not act as a limitation on the described items.



House Bill 2853 provides for an increase or reduction in a taxing unit's tax increment base following a boundary change based on the taxable value of property added to or removed from the zone and provides for a determination of that base by the appraisal district in which the zone is located based on certain assumptions and information provided by a municipality if the municipality does not levy a property tax in the year in which it designates the zone.

House Bill 2853 authorizes a municipality designating a reinvestment zone to use the proceeds from tax increment bonds or notes to make payments under an agreement between the zone's board of directors and the governing body of the municipality dedicating, pledging, or otherwise providing for the use of revenue in the tax increment fund to pay any project costs that benefit the zone. The bill 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.

House Bill 2853 extends the deadline for the governing body of a municipality or county to submit a report on the status of the zone to the chief executive officer of each taxing unit that levies property taxes on property in a reinvestment zone created by the municipality or county.

House Bill 2853 establishes a conclusive presumption that a governmental act or proceeding of a municipality, county, reinvestment zone's board of directors, or local government corporation or political subdivision relating to the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan is valid as of the date it occurred and that it 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. The bill sets out certain exceptions to such a presumption of validity.

**House Bill 3302**  
**Effective:** 6-17-11

**House Author:** Reynolds et al.  
**Senate Sponsor:** Hegar

House Bill 3302 amends the Local Government Code to authorize 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, 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 take. The bill authorizes the governing body of an authorizing municipality by ordinance to revoke any authority granted to such a Type A corporation and specifies that the revocation does not affect the authority of a corporation to complete a project already undertaken or the obligation to repay a debt incurred in connection with a project.

**House Bill 3465**  
**Effective:** 9-1-11

**House Author:** Sheffield  
**Senate Sponsor:** Fraser

House Bill 3465 amends Government Code provisions relating to the determination of school district property values to add a provision that is applicable only to a reinvestment zone created by a municipality that has a population of 70,000 or less and is located in a county in which all or part of a military installation is located. The bill limits the number of years for which the total dollar amount of any captured appraised value of property in a reinvestment zone may be deducted from the total taxable value of property in the district to the duration of the zone as determined under applicable provisions of the Tax Increment Financing Act if the municipality adopts an ordinance on or after January 1, 2017, that designates a termination date for the zone that is later than the termination date designated in the ordinance creating the zone.

**Senate Bill 627**  
**Effective:** 6-17-11

**Senate Author:** Davis  
**House Sponsor:** Veasey

Senate Bill 627 amends the Tax Code to authorize a county commissioners court that enters into an agreement with the governing body of a municipality for the purpose of paying into a reinvestment zone's tax increment fund the county's tax increment produced from property located in the zone to enter into an agreement with the municipality's governing body on behalf of a taxing unit other than the county if the county approves that unit's tax rate or levies that unit's taxes. The bill also authorizes the commissioners court of a county that creates a reinvestment zone to provide by order for the payment into the zone's tax increment fund of a portion of the tax increment produced by such a taxing unit. The bill excludes the hospital districts of Bexar, Nueces, El Paso, and Harris Counties from the application of these provisions.

Senate Bill 627 revises deadline provisions relating to a taxing unit making a payment into the tax increment fund for a reinvestment zone.

**Senate Bill 803**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Hunter

Senate Bill 803 amends the Local Government Code to authorize a county with a population of 40,000 or less in which at least one state park and one national wildlife refuge are located to plan, acquire, establish, develop, construct, or renovate a venue such as a park, aquarium, birding center, bird viewing site, history center, art center, nature center, nature trail, museum, or water-related project that creates or enhances an activity involving water sports or fishing as a venue project eligible for financing under the applicable provisions of law.

**Senate Bill 1047**  
**Effective:** 6-17-11

**Senate Author:** Jackson  
**House Sponsor:** Davis, John

Senate Bill 1047 amends Government Code provisions relating to the Texas emerging technology fund to make an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration eligible to apply for funds administered by the Texas emerging technology fund.

**The summaries for the following bills are in the listed chapters:**

- House Bill 970 - Taxes and Tax Administration
- House Bill 1315 - Taxes and Tax Administration
- House Bill 1690 - Taxes and Tax Administration
- House Joint Resolution 63 - Taxes and Tax Administration
- Senate Bill 304 - Labor and Employment
- Senate Bill 804 - Taxes and Tax Administration

# Elections

This chapter covers legislation on issues relating to statewide and local election regulation, including election officials and election procedures; campaign ethics and financing; voter fraud, voter identification, and voter registration; and redistricting. The chapter also includes legislation relating to local option elections on the sale of alcoholic beverages. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

**House Bill 2817**  
**Effective:** 9-1-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Duncan

House Bill 2817 amends the Election Code to revise provisions relating to election practices and procedures. The bill removes the requirement that notice of a general or special election state the location of each early voting polling place. The bill includes as an eligibility requirement for appointment as a volunteer deputy registrar the condition that the person has not been finally convicted of an offense of fraudulent use or possession of identifying information.

House Bill 2817 sets out requirements for the voter registrar of a county relating to the electronic submission of the record of each voter participating in certain elections and establishes that certain documents sent to the attorney general relating to a complaint alleging suspected criminal conduct in connection with an election are not considered public information for a specified period. The bill amends provisions governing a contract between a county election officer and the county executive committee of a political party holding a primary election in the county and the appointment of a presiding judge and alternate presiding judge for an election precinct.

House Bill 2817 amends provisions governing a watcher of an election relating to the watcher's possession of a device that records images or sound while serving as a watcher and provisions relating to the preservation of precinct election records. The bill amends provisions establishing the means by which an application is required to be submitted to the early voting clerk and requirements for an applicant for a ballot to be voted by mail who is absent from the county. The bill revises procedures governing the use of sealed ballot boxes in electronic voting system elections. The bill amends provisions governing ballots, ballot applications, and other materials required to be delivered to the early voting ballot board and the electronic recording of such materials. The bill designates the secretary of state as the state coordinator between military and overseas voters and county election officials and sets requirements for such officials.

House Bill 2817 makes changes to the eligibility requirements for a person to vote a limited ballot by personal appearance during the early voting period or by mail after changing residence to another county. The bill includes provisions relating to the orderly operation of a central counting station, the partial count of electronic voting system ballots, and requirements for posting notice for the dates of a filing period for various state and county offices in a general election. The bill revises provisions establishing withdrawal deadlines for a candidate and governing the time and place of precinct conventions, and sets out provisions relating to notice requirements for a recount and a contest of a runoff primary election.

House Bill 2817 establishes duties for the Texas Ethics Commission, rather than the secretary of state, to meet specified requirements regarding the written certification of the population of certain judicial districts and delivery of the certification to certain county clerks. The bill includes requirements relating to notice of a petition for a local option election on the sale of alcoholic beverages and a deposit by the applicants before such a petition is issued. The bill

repeals Election Code provisions relating to an annual report of voter registrations, a preelection registration statement filed by a voter registrar, and the delivery of certain paper ballots to an early voting ballot board.

**House Bill 2959**

**Effective:** 9-1-11

**House Author:** Price

**Senate Sponsor:** Fraser

House Bill 2959 amends the Election Code to make it a Class C misdemeanor for a former county chair of the county executive committee for a political party to fail to transfer records concerning party affairs to the new county chair not later than the 30th day after the date the term of office of the new county chair begins.

**Senate Bill 14**

**Effective:** See below

**Senate Author:** Fraser et al.

**House Sponsor:** Harless et al.

Senate Bill 14 amends the Election Code to require a voter, on offering to vote, to present to an election officer at the polling place one of the following acceptable forms of photo identification:

- a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety (DPS) that has not expired or that expired no earlier than 60 days before the date of presentation;
- a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;
- a United States citizenship certificate issued to the person that contains the person's photograph;
- a United States passport issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or
- a license to carry a concealed handgun issued to the person by DPS that has not expired or that expired no earlier than 60 days before the date of presentation.

The bill removes items from the list of documentation acceptable as proof of identification for voting and exempts from the photo identification requirement a person with a disability who provides certain documentation. It establishes procedures for accepting for voting a voter with the required documentation who is not on the precinct list of registered voters and amends procedures for accepting for provisional voting a voter without a certificate who is not on the list.

Senate Bill 14 amends provisions establishing the regular procedure for accepting a voter, including adding the requirement that the voter present an acceptable form of photo identification, removing the requirement that the voter present only the voter's voter registration certificate, and authorizing a voter who does not meet the identification requirements either to be accepted for provisional voting or to be informed of the voter's right to cast a provisional ballot and provided information relating to provisional voting requirements. It includes among the conditions for accepting a provisional ballot that the voter meets the identification requirements, executes an affidavit stating that the voter has a consistently held religious objection to being photographed for governmental purposes, or executes an affidavit stating that the voter does not have any identification meeting the requirements as a result of a natural disaster meeting certain conditions. The voter may present the identification to the voter registrar or execute such an affidavit in the presence of the voter registrar not later than the sixth day after the election.

Senate Bill 14 establishes requirements for notifying voters of the identification requirements for voting and for statewide voter identification education provided by the secretary of state and provides for training of election officers and election clerks on the acceptance and handling of the required identification. The bill authorizes state funds allocated for certain voter registration

expenses also to be used for additional expenses related to activities to expand voter registration. The bill increases the penalty for an illegal voting offense from a third degree felony to a second degree felony and increases the penalty for an attempted illegal voting offense from a Class A misdemeanor to a state jail felony.

Senate Bill 14 amends the Transportation Code to set out provisions relating to the issuance of an election identification certificate by DPS.

The provisions of Senate Bill 14 relating to notification of voter identification requirements, voter education, training of election officers and clerks, and funding for activities to expand voter registration take effect September 1, 2011; all other provisions take effect January 1, 2012.

**Senate Bill 100**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Taylor, Van

Senate Bill 100 updates provisions of the Education Code, Election Code, Health and Safety Code, Local Government Code, and Water Code relating to the adoption of procedures necessary to implement the federal Military and Overseas Voter Empowerment (MOVE) Act, deadlines for declaration of candidacy and ordering certain elections, uniform election date changes for certain local government elections, and terms of office for certain municipal elected officials.

Senate Bill 100 implements the federal MOVE Act provisions changing how military and overseas voters vote by expanding the elections covered to include any general or runoff election in which an office of the federal government appears or to fill a vacancy in the legislature with certain exceptions, or an election held jointly with those elections. The bill authorizes the e-mail transmission of balloting materials to a member of the armed forces or merchant marine, or the member's spouse or dependent, or a person domiciled in Texas but temporarily living outside of the United States. The bill sets out provisions relating to requests for balloting materials, types of balloting materials to be sent electronically, allowable methods of electronically transmitting ballot materials, and procedures for retransmission if balloting materials are unsuccessfully transmitted and for returning an electronically transmitted ballot. The bill designates the secretary of state as the state coordinator between military and overseas voters and county election officials, requires the county election officials to cooperate with the secretary of state and comply with the MOVE Act, and authorizes the secretary of state to implement rules as necessary to implement the act.

The bill requires the secretary of state, in coordination with local election officials, to implement an electronic free-access system by which a military and overseas voter eligible for early voting by mail may determine by telephone, by e-mail, or over the Internet whether the person's federal postcard application or other registration or ballot application has been received and accepted, whether the person's ballot has been received, and the current status of the ballot.

## **Campaign Ethics and Financing**

**House Bill 336**  
**Effective:** 9-1-11

**House Author:** Marquez  
**Senate Sponsor:** Rodriguez

House Bill 336 amends the Election Code to require a school district that is located wholly or partly in a municipality with a population of more than 50,000 and with a student enrollment of more than 15,000 to post on the school district's Internet website a campaign finance report filed by a member of the board of trustees, a candidate for the office, or a specific-purpose committee supporting, opposing, or assisting a candidate for or member of a board of trustees. The bill requires such reports to be available to the public on the website not later than the fifth business day after the date the report is filed with the school district and allows certain address information



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to be redacted for Internet posting. Access to such reports is in addition to the public's access to the information through other electronic or print distribution of the information.

**House Bill 1616**  
**Effective:** Vetoed

**House Author:** Geren et al.  
**Senate Sponsor:** Estes

House Bill 1616 amends the Election Code to increase from \$50 to \$100 the threshold amount of a political expenditure for which that expenditure must be reported and expands the list of information that must be included in reports of political contributions or expenditures filed with the Texas Ethics Commission by an officeholder, candidate, or political committee. The bill authorizes a person to amend a filed semiannual report or correct a filed report under certain circumstances and creates an exception to the application of the Class C misdemeanor for filing an untimely or incomplete report.

House Bill 1616 amends the Government Code to establish conditions that do not constitute a valid basis for filing a complaint alleging that a person violated a rule or law enforced by the commission and sets out procedures relating to the dismissal of a complaint challenging certain information in a political report. The bill revises provisions relating to complaint processing and prohibits the commission from conducting a preliminary review of a complaint alleging that a person failed to properly file a report until the period for correcting the report has expired. The bill amends the Local Government Code to require the financial statement of certain county officers to comply with any order of the county commissioners court requiring additional disclosure.

Reason Given for Veto: "Although House Bill 1616 contains several commonsense changes to Texas' campaign finance reporting statutes, an amendment added late in the process would inadvertently cripple the Texas Ethics Commission's authority to enforce compliance with state campaign finance laws.

"The amendment's author requested a veto of House Bill 1616. I urge the Texas Legislature to closely examine our system of campaign finance reporting during the Ethics Commission's upcoming Sunset Commission review and craft legislation that will continue and improve our state's 20-year history of open, honest and efficient campaign finance reporting."

**House Bill 2359**  
**Effective:** 6-17-11

**House Author:** Hopson  
**Senate Sponsor:** Williams

House Bill 2359 amends and repeals provisions of the Election Code relating to political contributions and expenditures and related electronic filing requirements. The bill removes a prohibition against a corporation or labor organization making certain political expenditures and a prohibition against a political expenditure in connection with a recall election, and removes identifying information of certain individuals acting as campaign treasurers of a political committee from the information each political report by a candidate is required to contain. The bill establishes reporting requirements for a person not acting in concert with another person who, under certain circumstances, makes one or more direct campaign expenditures in an election from the person's own property. The bill provides an exception to certain of its provisions for a direct campaign expenditure consisting of personal travel expenses.

**House Bill 3093**  
**Effective:** 9-1-11

**House Author:** Lewis  
**Senate Sponsor:** Duncan

House Bill 3093 amends the Election Code to authorize a person who files a semiannual report of political contributions and expenditures to amend the report and establishes the conditions under which an amended report is to be considered to have been filed on the date the original report was filed. The bill creates an exception to the offense of knowingly failing to include required information in a report of political contributions and expenditures for such an amended semiannual report.

## Election Officials and Election Procedures

**House Bill 184**  
**Effective:** 9-1-11

**House Author:** Johnson  
**Senate Sponsor:** West

House Bill 184 amends the Election Code to require, rather than authorize, the secretary of state to declare an unopposed candidate elected to fill a vacancy in the legislature if each candidate for an office that is to appear on the ballot is unopposed and no proposition is to appear on the ballot. The bill establishes deadlines by which the declaration is required to be made based on the reason the candidate is unopposed.

**House Bill 360**  
**Effective:** 9-1-11

**House Author:** Jackson et al.  
**Senate Sponsor:** Duncan

House Bill 360 amends the Election Code to require a ballot for a proposition submitted to the voters for approval of the issuance of bonds or the imposition, increase, or reduction of a tax to specifically state the total principal amount of the bonds, a general description of the purpose of the bonds, or the amount of maximum tax rate or tax increase or reduction for which the approval is sought, as applicable.

**House Bill 1135**  
**Effective:** 9-1-11

**House Author:** Aycock  
**Senate Sponsor:** Fraser

House Bill 1135 amends the Election Code to prohibit a candidate for public office from amending an application for a place on the ballot or a petition in lieu of a filing fee submitted with the candidate's application after the filing deadline and to prohibit the authority with whom the application or petition is filed from accepting such an amendment after the filing deadline.

**House Bill 1136**  
**Effective:** 6-17-11

**House Author:** Aycock  
**Senate Sponsor:** Fraser

House Bill 1136 amends the Election Code to require a county election officer of each county to hold a meeting with the county chair of each political party to discuss the lists provided by each political party containing the names of persons for each early voting polling place who are eligible for selection as an election officer and the names of persons eligible to serve on the early voting ballot board, and to discuss the implementation of provisions relating to processing early voting results. The bill sets out meeting notice requirements.

**House Bill 1401**  
**Effective:** 9-1-11

**House Author:** Laubenberg  
**Senate Sponsor:** Estes

House Bill 1401 amends the Election Code to authorize a municipality that includes an area annexed to the municipality, on or after the date on which a petition requesting a local option election in the municipality is filed, to hold the election in the municipality only if the petition contains a sufficient number of signatures to meet the requirements under state law for ordering a local option election on the sale of alcoholic beverages. The bill establishes that the number of signatures required for the petition is based on the number of qualified voters in the municipality, including the annexed area. The bill requires the qualified voters of the annexed area to be allowed to vote in the election and requires the results of the election to determine the local option status of the municipality, including the annexed area.

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### **House Bill 1503**

**Effective:** 9-1-11

**House Author:** White et al.

**Senate Sponsor:** Nichols

House Bill 1503 amends the Election Code to make a person's eligibility for appointment as a special peace officer for a polling place contingent on the person being licensed as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

### **House Bill 1528**

**Effective:** 9-1-11

**House Author:** Miller, Sid

**Senate Sponsor:** Fraser

House Bill 1528 amends the Election Code to remove as a condition for the county executive committee of a political party holding a primary election to be authorized to order two or more county election precincts consolidated into a single precinct that at least one consolidated precinct be situated wholly within each commissioners precinct.

### **House Bill 1545**

**Effective:** 6-17-11

**House Author:** Lewis

**Senate Sponsor:** Watson

Under previous law, the governing body of a political subdivision, other than a county, that held its general election for officers on a date other than the November uniform election date could change, not later than December 31, 2010, the date on which it held its general election for officers to the November uniform election date. House Bill 1545 amends the Election Code to change that deadline to not later than December 31, 2012. The bill repeals a provision requiring a general or special election of officers of a city with a population of more than 450,000 in which all members of the city's governing body are elected at large, an independent school district or public junior college district with a service area that is primarily the same as that of such a city, and a metropolitan transit authority with such a city as its principal city to be held on the spring uniform date.

### **House Bill 1570**

**Effective:** 9-1-11

**House Author:** Murphy et al.

**Senate Sponsor:** Williams

House Bill 1570 amends the Election Code to require the secretary of state, not later than January 1, 2012, to adopt standards of training for deputy voter registrars in election law relating to the registration of voters, develop materials for a standardized curriculum for that training, and distribute the materials as necessary to each county voter registrar. The bill authorizes the training standards to include the passage of an examination at the end of a training program. The bill prohibits a regular deputy voter registrar from assisting in the registration of voters and prohibits a volunteer deputy voter registrar from receiving another person's voter registration application until the regular or volunteer deputy registrar has completed required training. The bill requires the voter registrar, at the time of a deputy registrar's appointment, to provide information about the times and places at which training is offered.

### **House Bill 1593**

**Effective:** 9-1-11

**House Author:** Isaac

**Senate Sponsor:** Huffman

House Bill 1593 amends the Election Code to include a space for a candidate's e-mail address among the spaces for entering information required to be included on an official form for an application for a place on a ballot and to include on the application a statement informing the candidate that furnishing the candidate's e-mail address is optional.

**House Bill 1789**  
**Effective:** 9-1-11

**House Author:** Farias  
**Senate Sponsor:** Van de Putte

House Bill 1789 amends the Election Code to authorize the secretary of state, on request of a county election officer of a county with a population of 100,000 or more who conducts a primary election under an election services contract, to provide payment of primary expenses directly to the officer who incurs the expense rather than to the county chair. The bill requires the secretary of state to prescribe procedures to implement the bill's provisions.

**House Bill 1904**  
**Effective:** 9-1-11

**House Author:** Sheffield et al.  
**Senate Sponsor:** Estes

House Bill 1904 amends the Election Code to change the filing deadline for a declaration of write-in candidacy for the office of county chair or precinct chair of a political party from 5 p.m. on the 62nd day before general primary election day to 6 p.m. on the fifth day after the date of the regular filing deadline for the general primary election. The bill removes an exception to the filing deadline for a candidate who dies or is declared ineligible before the regular filing deadline.

**House Bill 2144**  
**Effective:** 9-1-11

**House Author:** Garza  
**Senate Sponsor:** Uresti

House Bill 2144 amends the Election Code to exempt the initial election of the members of the governing body of a newly incorporated city from the uniform election date requirement that each general or special election in Texas be held on either the second Saturday in May or the first Tuesday after the first Monday in November. The bill authorizes the governing body of a newly incorporated city, not later than a specified date depending on the date of incorporation, to change the date on which it holds its general election for officers to another authorized uniform election date. The bill amends the Local Government Code to require a newly incorporated municipality, not later than the first anniversary of the date of its incorporation, to select a uniform election date to use for the general election of the members of the municipality's governing body.

**House Bill 2194**  
**Effective:** See below

**House Author:** Taylor, Larry  
**Senate Sponsor:** Jackson

Effective September 1, 2011, House Bill 2194 amends the Election Code to establish eligibility requirements for appointment as a regular deputy voter registrar or volunteer deputy voter registrar and makes it a Class A misdemeanor for a person to engage in certain voter registration activity involving compensating another person or accepting compensation. The bill revises provisions relating to general eligibility requirements for serving as a judge of an election precinct. The bill revises provisions relating to the implementation of a countywide polling place program, authorizes each county that previously participated in such a program to continue participation for future elections if approved by certain entities, and exempts such a county from certain program requirements. The bill requires unofficial election results to be released as soon as they are available after the polls close, with certain exceptions, and adds July as an alternative month in which the biennial state convention is to be held. The bill amends the Government Code to expand the exception to the prohibition against a public official's involvement in the appointment or confirmation of an individual to a public office if a certain relationship exists.

Effective January 1, 2012, the bill repeals Election Code provisions requiring the maintenance of a registration omissions list by an election officer at a polling place, the acceptance of a voter with an incorrect voter registration certificate who is not on the precinct list of registered voters, and the acceptance of a voter without such certificate who is on that list. The bill revises the content of the affidavit required for provisional voting by a voter without a certificate who

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is not on the precinct registration list and the documents contained in envelope no. 4, used for assembling election records after an election.

**House Bill 2477**  
**Effective:** 9-1-11

**House Author:** Harless  
**Senate Sponsor:** Ellis

House Bill 2477 amends the Election Code to require a political subdivision, if the director of the census determines that the political subdivision is required under federal law to provide election materials in a language other than English or Spanish, to provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish under state law, to the extent applicable. The bill requires the secretary of state to prepare the translation for the election materials for various state prescribed voter forms and to include appropriate ballot translation language for each language certified statewide or in a specific county by the director of the census on a general election ballot for state and county officers, statewide and district offices, president and vice president, and a proposed constitutional amendment.

**House Bill 2920**  
**Effective:** 9-1-11

**House Author:** Reynolds et al.  
**Senate Sponsor:** Hegar

House Bill 2920 amends the Local Government Code to authorize the governing body of a Type C general-law municipality with a population of more than 10,000 residents to adopt an ordinance to determine if the commissioners of the municipality may be elected in alternate years or in the same election year. The bill requires the elections to be held on an authorized uniform election date.

**House Bill 3270**  
**Effective:** 9-1-11

**House Author:** Veasey  
**Senate Sponsor:** Deuell

Under previous law, for each general primary election, the state party chair and each county party chair were required to prepare a list that, among other information, contained the name of each candidate who filed an application for a place on the ballot. House Bill 3270 amends the Election Code to clarify that the list includes the name of each candidate who files an application for the office of a political party.

**Senate Bill 729**  
**Effective:** 5-10-11

**Senate Author:** Seliger  
**House Sponsor:** Price

Senate Bill 729 amends the Education Code to provide as an alternative among several dates on which an election for trustees of an independent school district must be held the same date as the election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

**Senate Joint Resolution 37**  
**For Election:** 11-8-11

**Senate Author:** Van de Putte  
**House Sponsor:** Taylor, Van

Senate Joint Resolution 37 proposes an amendment to the state constitution to specify that an announcement by certain elected county or district officeholders of candidacy for another office, or such candidacy itself, constitutes an automatic resignation of the office then held if the announcement or candidacy occurs at any time when the officeholder's unexpired term exceeds one year and 30 days, rather than one year.

Senate Joint Resolution 37 makes the submission of the constitutional amendment proposed by the resolution to the voters contingent on the secretary of state certifying that an enactment of the 82nd Legislature, Regular Session, 2011, that became law provides for a filing deadline for



an application for a place on the general primary ballot that occurs in the calendar year before the year in which the primary is held.

## Redistricting

**House Bill 150**  
**Effective:** 8-29-11

**House Author:** Solomons  
**Senate Sponsor:** Seliger

House Bill 150 redraws the 150 single-member districts from which the members of the Texas House of Representatives are elected. The bill makes the redrawn districts apply beginning with the primary and general elections in 2012 for members of the 83rd Legislature.

**House Bill 600**  
**Effective:** 8-29-11

**House Author:** Solomons  
**Senate Sponsor:** Seliger

House Bill 600 redraws the 15 single-member districts from which the members of the Texas State Board of Education are elected. The bill makes the redrawn districts apply beginning with the primary and general elections in 2012 for members of the board in 2013.

**Senate Bill 4 (1st C.S.)**  
**Effective:** 9-28-11

**Senate Author:** Seliger  
**House Sponsor:** Solomons

Senate Bill 4 draws the 36 single-member districts from which the Texas members of the United States House of Representatives are elected. The bill makes the new congressional districts applicable beginning with the primary and general elections in 2012 for members of the 112th Congress.

**Senate Bill 31**  
**Effective:** 8-29-11

**Senate Author:** Seliger  
**House Sponsor:** Solomons

Senate Bill 31 redraws the 31 single-member districts from which the members of the Texas Senate are elected. The bill makes the redrawn districts apply beginning with the primary and general elections in 2012 for members of the 83rd Legislature.

## Voter Fraud, Voter Identification, and Voter Registration

**House Bill 174**  
**Effective:** 9-1-11

**House Author:** Jackson et al.  
**Senate Sponsor:** Duncan

House Bill 174 amends provisions of the Election Code and Government Code to revise procedures for verifying persons who are deceased or not citizens of the United States for purposes of establishing a person's ineligibility to vote or canceling a person's voter registration. The bill includes the secretary of state among the individuals with whom the local registrar of deaths is required to file a monthly abstract of each death certificate issued in the month for a decedent 18 years of age or older who was a Texas resident at the time of death and among the individuals with whom the clerk of each court having probate jurisdiction is required to file a monthly abstract of each application for probate of a will, the administration of a decedent's estate, or the determination of heirship and each affidavit relating to the collection of small estates. The bill requires the secretary of state quarterly to compare the monthly abstracts and the list of persons excused or disqualified from jury service on the basis of citizenship to the statewide computerized voter registration list. The bill requires the secretary of state to send

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notice of a determination that a voter on the registration list is deceased or has been excused or disqualified from jury service on the basis of noncitizenship. The bill adds to the conditions under which a registrar is required to immediately cancel a voter's registration receipt of notice from the secretary of state that the voter is deceased. The bill adds the secretary of state's comparison of information regarding ineligibility to the uses of a list of persons excused or disqualified because of citizenship that are not prohibited.

House Bill 174 includes the secretary of state and the county or district attorney, as applicable, among the individuals to whom the clerk of the court is required each month to send a copy of the list of persons excused or disqualified from jury service on the basis of noncitizenship. The bill adds to the information required to be included in a written summons for jury duty, if the summons allows a person to claim a disqualification or exemption from jury duty based on noncitizenship, the fact that claiming such a disqualification means the person will no longer be eligible to vote if the person fails to provide proof of citizenship.

**House Bill 1226**  
**Effective:** 6-17-11

**House Author:** Dutton  
**Senate Sponsor:** Ellis

Currently, a person who is finally convicted of a felony, and who has not fully discharged the sentence or been pardoned or otherwise released from the resulting disability to vote, is ineligible to register as a voter in Texas and is not considered a qualified voter for purposes of the Election Code. House Bill 1226 amends the Election Code to establish that, for purposes of eligibility to register as a voter and voter qualification, a person is not considered to have been finally convicted of a felony for an offense for which the person receives deferred adjudication.

**House Bill 2449**  
**Effective:** 9-1-11

**House Author:** Aliseda et al.  
**Senate Sponsor:** Hegar

House Bill 2449 amends the Election Code relating to unlawfully obtaining ballots or carrier envelopes in violation of the prescribed method of returning a marked ballot. Under the bill, when a ballot or carrier envelope is unlawfully obtained by a person pursuant to a scheme or continuing course of conduct to commit voter fraud by mail the conduct may be considered as one offense and the number of ballots or carrier envelopes aggregated in determining the grade of the offense. Under previous law, a copy of an application for a mail-in ballot could be obtained from the early voting clerk within a certain period after the ballot was mailed to the voter before election day. The bill specifies that such a ballot is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after election day.

**Senate Bill 1046**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Pena

Senate Bill 1046 amends the Election Code to require the secretary of state to obtain quarterly from the United States Social Security Administration available information specified by the secretary of state relating to deceased residents of Texas and compare the information received to the statewide computerized voter registration list. The bill requires the secretary of state, if the secretary of state determines that a voter on the registration list is deceased, to notify the voter registrar of the counties considered appropriate by the secretary of state. The bill includes as a condition under which the voter registrar is required to cancel a voter's registration immediately that the registrar receives such notice.

**The summaries for the following bills are in the listed chapters:**

House Bill 1678 - Open Government and Privacy

Senate Bill 832 - Special Districts



## Emergency Response

This chapter covers legislation on issues relating to emergency response generally, including emergency medical services and fire protection. This chapter also includes legislation relating to the Amber and Silver alert systems. Legislation relating to hospital districts is in the **Special Districts** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 554**  
**Effective:** 6-17-11

**House Author:** Howard, Donna et al.  
**Senate Sponsor:** Watson

House Bill 554 amends the Local Government Code to require a municipality with certain characteristics, after the governing body receives a petition that meets certain requirements, to hold an election to adopt or repeal the emergency medical services personnel civil service law as added by the bill's provisions. The bill sets out procedures for the administration of such an election. If adopted, the emergency medical services personnel civil service law would grant certain emergency medical services employees civil service status; require the governing body to classify the emergency medical services personnel in accordance with municipal civil service law provisions governing the classification of firefighters and police officers; and make municipal civil service law provisions for firefighters and police officers apply to emergency medical services personnel.

**House Bill 993**  
**Effective:** 9-1-11

**House Author:** Rodriguez et al.  
**Senate Sponsor:** Watson

House Bill 993 amends the Transportation Code to authorize a firefighter with an emergency services district, a volunteer fire department, or a general-law municipality to close one or more lanes of a road or highway to protect the safety of persons or property when performing official duties. The bill places limitations on the lane closures and requires the deployment of emergency vehicles that meet certain requirements.

**House Bill 1075**  
**Effective:** 9-1-11

**House Author:** Anderson, Rodney et al.  
**Senate Sponsor:** Davis et al.

House Bill 1075 amends the Government Code to require the Department of Public Safety's (DPS) statewide America's Missing: Broadcast Emergency Response (AMBER) alert system that is activated on behalf of an abducted child to be activated on behalf of a missing person with an intellectual disability. The bill sets out the circumstances under which DPS is required to activate the alert system regarding a missing person with an intellectual disability and notify appropriate system participants. The bill authorizes the public safety director of DPS by rule to assign a different name to the AMBER alert system when activated regarding a missing person with an intellectual disability and requires the director to adopt rules and issue directives necessary to implement the changes made to the alert system.

**House Bill 1861**  
**Effective:** 6-17-11

**House Author:** Anchia  
**Senate Sponsor:** Whitmire

House Bill 1861 amends the Health and Safety Code to continue the Commission on State Emergency Communications until September 1, 2023. The bill requires the commission to develop and implement a policy to encourage the use of negotiated rulemaking procedures for the adoption of commission rules and appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the commission's jurisdiction. The bill authorizes the commission, with the assistance of the Emergency Communications



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Advisory Committee, to coordinate the development, implementation, and management of an interconnected, state-level emergency services Internet Protocol network that is to be used for communications between and among public safety answering points and other entities that support or are supported by public safety answering points in providing emergency call handling and response and will be a part of the Texas Next Generation Emergency Communications System. The bill sets out requirements relating to the implementation of the commission's alternative dispute resolution procedures and collection of data concerning the effectiveness of those procedures, and for the development, implementation, and management of the Internet Protocol network and the appointment of members to the advisory committee.

**House Bill 2619**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Whitmire

House Bill 2619 amends Water Code provisions relating to the coordination of emergency operations of an affected utility that is a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer in a county with a population of 3.3 million or more or in a county with a population of 400,000 or more adjacent to a county with a population of 3.3 million or more.

The bill removes a county judge from the list of entities to which an affected utility is required to submit a copy of its approved emergency preparedness plan and a copy of the Texas Commission on Environmental Quality's notification that the plan is accepted. The bill removes the county judge and includes each electric utility that provides transmission and distribution service to an affected utility and each retail electric provider that sells electric power to the affected utility, in addition to certain other entities, as entities to which each affected utility is required to submit certain emergency contact information and information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status. The bill requires an affected utility to annually submit such identifying, descriptive, and emergency contact information, as well as any forms reasonably required by an electric utility or retail electric provider for determining critical load status, to each electric utility that provides transmission and distribution service to the affected utility and to each retail electric provider that sells electric power to the affected utility. The bill requires an electric utility and a retail electric provider, if the electric utility determines that an affected utility's facilities do not qualify for critical load status and within a specified period after receiving certain required information, to provide a detailed explanation of the electric utility's determination to the affected utility and the office of emergency management of each county in which the affected utility's facilities are located.

**House Bill 3487**  
**Effective:** 9-1-11

**House Author:** Taylor, Van  
**Senate Sponsor:** Carona

House Bill 3487 amends the Business & Commerce Code to prohibit a commercial lodging establishment or restaurant from charging a security deposit or fee for a service canine that accompanies an individual to the establishment or restaurant if the individual is a peace officer or firefighter assigned to a canine unit or a handler of a search and rescue canine participating in a search and rescue operation and the individual is traveling in the course and scope of duty because of a declared disaster or a mutual aid request or mutual aid training. The bill provides a civil penalty in an amount not to exceed \$200 for each violation of this prohibition and sets out liability provisions.

**Senate Bill 396**  
**Effective:** 5-12-11

**Senate Author:** Deuell  
**House Sponsor:** Marquez

Senate Bill 396 amends the Government Code to require the state fire marshal to investigate the circumstances surrounding the death of a firefighter if the firefighter dies in the line of duty or if the firefighter's death occurs in connection with an on-duty incident in Texas, rather than if a firefighter dies in the line of duty in connection with a fire-fighting incident in Texas. The bill removes language describing specific circumstances surrounding the death of a firefighter that must be investigated.

**Senate Bill 646**  
**Effective:** 9-1-11

**Senate Author:** Nichols et al.  
**House Sponsor:** Cook

Senate Bill 646 amends the Education Code to continue the Texas Forest Service until September 1, 2023. The bill authorizes the forest service to provide incident management training to its personnel and other state, local, and volunteer responders as a means of developing and enhancing the state's all-hazard response capability. The forest service also is authorized to maintain incident management teams, which may consist of such personnel and responders, to respond to all-hazard events and may mobilize such a team for a wildfire response operation or to provide incident support for other operations. The bill authorizes the director of the forest service to establish guidelines within which local fire departments may assist the forest service in responding to a wildfire after other local firefighting resources have been exhausted and provides for the compensation and reimbursement of volunteer fire departments for such assistance. A volunteer firefighter who receives compensation is not subject to state certification requirements but may be issued certain national certification by the forest service. The bill requires the forest service to develop and update a wildfire protection plan, which must meet certain minimum requirements. The bill authorizes, rather than requires, the statewide fire coordination center to provide dispatching services for wildfire control and removes the limitation of such services to specified dispatch areas.

Senate Bill 646 amends Government Code provisions relating to the Rural Volunteer Fire Department Assistance Program to require the director of the Texas Forest Service to consider certain information relating to the state's wildfire risk in determining criteria and qualifications for distributing money from the volunteer fire department assistance fund. The bill authorizes the Texas Forest Service to designate a portion of the fund to be used to assist volunteer fire departments in meeting certain federal grant requirements and requires the director to determine criteria for determining a department's eligibility to apply for such a grant.

**Senate Bill 901**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Kolkhorst

Senate Bill 901 amends the Health and Safety Code to prohibit the recipient of a grant to fund county and regional emergency medical services, designated trauma facilities, and trauma care systems, before the fourth anniversary of the date the grant is awarded, from disposing of an ambulance for which the total costs of purchasing the ambulance were paid only from grants awarded for those funding purposes, unless the grant recipient obtains the prior approval of the Department of State Health Services.

**Senate Bill 937**  
**Effective:** 9-1-11

**Senate Author:** Lucio  
**House Sponsor:** Naishtat

Senate Bill 937 amends the Utilities Code to require an electric utility to give a nursing facility, an assisted living facility, and a facility that provides hospice services the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an

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extended outage. The bill requires the Public Utility Commission of Texas to adopt rules under this provision and sets out reporting requirements relating to a municipally owned utility and an electric cooperative's emergency operations plans for restoring power to such a facility.

**Senate Bill 1065**  
**Effective:** 9-1-11

**Senate Author:** Williams  
**House Sponsor:** Hamilton

Senate Bill 1065 amends the Health and Safety Code to establish provisions relating to critical incident stress management services and crisis response services. The bill specifies that a meeting in which either type of service is rendered to an emergency service provider is closed to the general public and may be closed to any individual who was not directly involved in the critical incident or crisis, with certain exceptions. The bill provides for the confidentiality of a communication made by a provider to an emergency response team member while the provider receives either type of service and of a record kept by a team member relating to the provision of either type of service to a provider by the team, with certain exceptions. The bill limits the liability of an emergency response team or team member providing either type of service for damages in any civil action, other than medical tort, unless the team's or member's act, error, or omission in the performance of the services constitutes wanton, wilful, or intentional misconduct.

**Senate Bill 1133**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Harless

Senate Bill 1133 amends the Utilities Code to require the Public Utility Commission of Texas (PUC) to prepare a report on the ability of electric generation entities to respond to abnormal weather conditions and to submit the report to the lieutenant governor, the speaker of the house of representatives, and the members of the legislature no later than September 30, 2012. The bill establishes requirements relating to the report and the authority to submit subsequent reports. The PUC is authorized to adopt rules to implement the report and to require an electric generation entity to file an updated emergency operations plan in certain circumstances.

**The summaries for the following bills are in the listed chapters:**

House Bill 577 - Health and Safety  
House Bill 805 - Water  
House Bill 2758 - Higher Education  
House Bill 3337 - Property Interests and Housing  
Senate Bill 328 - Property Interests and Housing  
Senate Bill 1477 - Military Forces and Veterans  
Senate Bill 1560 - Civil Remedies and Procedures

## Energy Resources

This chapter covers legislation relating to oil, natural gas, coal, geothermal energy, biofuels, and related operations, including pipelines for energy delivery, as well as legislation on energy efficiency and conservation. Legislation relating to electric power plants and gas utilities, other than legislation on clean energy projects involving fossil fuels, is in the **Utilities** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 51**  
**Effective:** 9-1-11

**House Author:** Lucio III et al.  
**Senate Sponsor:** Hinojosa

House Bill 51 amends the Government Code to require a new state building or a major renovation project to be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system that is approved by the State Energy Conservation Office and that meets certain requirements. The bill requires the office to appoint an advisory committee to advise the office in selecting one or more systems for approval and establishes provisions regarding the composition and appointment of the committee's members. The bill revises the required criteria for the energy and water conservation design standards established by the office for each new state building or major renovation project.

House Bill 51 amends the Education Code to require the construction or renovation of certain buildings, structures, or other facilities of an institution of higher education to be designed and constructed or renovated so that the facility complies with high-performance building standards that are approved by the institution's board of regents and that provide minimum requirements for energy use, natural resources use, and indoor air quality. In approving those standards, a board of regents is required to consider the high-performance building evaluation system approved by the State Energy Conservation Office and is authorized to solicit and consider recommendations from the advisory committee appointed by that office. The bill requires such a facility to be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the office unless the institution constructing the building determines that compliance is impractical.

House Bill 51 amends the Health and Safety Code to require a municipality to track and report to the State Energy Conservation Office on implementation of the International Residential Code for single-family residential construction in Texas and the International Energy Conservation Code for all other residential, commercial, and industrial construction in Texas. The bill authorizes the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System to conduct outreach to the real estate industry on the value of energy code compliance and verified, above-code, high-performance construction.

**House Bill 1728**  
**Effective:** 9-1-11

**House Author:** Keffer  
**Senate Sponsor:** Harris

House Bill 1728 amends the Education Code, the Government Code, and the Local Government Code, in provisions of law relating to energy savings performance contracts, to authorize the board of trustees of a public school district, the governing board of an institution of higher education, a state agency, or the governing body of a local government to use any available money, other than money borrowed from the state, to pay the provider of the energy or water conservation measures under such a contract. The bill specifies that the previously described entities are not required to pay for such costs solely out of the savings realized by the entity under the contract and authorizes the entity to contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of the contract.

**House Bill 2077**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Deuell

The loanstar revolving loan program, established by the legislature in 1993, is authorized to provide loans to finance energy and water efficiency measures for public facilities and is administered by the state energy conservation office. House Bill 2077 amends the Government Code to require the energy office to establish and administer a pilot program under the loanstar program 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. The bill requires the energy office to submit annually a report to the legislature that includes specified information about the pilot program. The pilot program expires December 31, 2015.

**House Bill 2289**  
**Effective:** 6-17-11

**House Author:** Crownover  
**Senate Sponsor:** Jackson

Previous law granted a gas corporation the right to lay and maintain a gas pipeline, under certain conditions, over, along, under, and across a public road, a railroad, a railroad right-of-way, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley. House Bill 2289 amends the Utilities Code to clarify that the gas utility may lay and maintain a pipeline over, under, and across a railroad or a railroad right-of-way but not along a railroad or a railroad right-of-way.

**House Bill 2663**  
**Effective:** 9-1-11

**House Author:** Chisum  
**Senate Sponsor:** Seliger

House Bill 2663 amends the Natural Resources Code to establish that the rules and standards adopted by the Railroad Commission of Texas under the Liquefied Petroleum Gas Code preempt and supersede any ordinance, order, or rule adopted by a political subdivision of the state relating to any aspect or phase of the liquefied petroleum industry. A political subdivision may petition the railroad commission's executive director for permission to adopt more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety.

**House Bill 3134**  
**Effective:** 6-17-11

**House Author:** Crownover  
**Senate Sponsor:** Duncan

House Bill 3134 amends the Natural Resources Code to require an authorized employee of the railroad commission or a designee to determine whether the operator of an oil or gas well that is under the jurisdiction of the railroad commission has failed to comply with state law governing the plugging of inactive wells. The bill sets out procedures relating to a determination of noncompliance.

**House Bill 3328**  
**Effective:** 9-1-11

**House Author:** Keffer et al.  
**Senate Sponsor:** Fraser et al.

House Bill 3328 amends the Natural Resources Code to require the Railroad Commission of Texas to adopt rules requiring an operator of an oil or gas well on which a hydraulic fracturing treatment is performed to disclose the composition of hydraulic fracturing fluids used in the treatment, in addition to other specified information, by completing, in regard to the well, a form posted on the hydraulic fracturing chemical registry Internet website of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The rules must require a service company that performs a hydraulic fracturing treatment on a well or a supplier of an additive in a treatment to provide the operator with the information necessary for the operator to



comply with the disclosure requirements. House Bill 3328 provides for the protection of trade secrets by allowing an entity that is required to comply with the bill's provisions to withhold and declare certain information as a trade secret and provides for a challenge to a claim of entitlement to trade secret protection, with specified limitations. The bill requires the railroad commission to adopt rules relating to the disclosure of the composition of hydraulic fracturing fluids and the protection and challenge of trade secrets in regard to these fluids not later than July 1, 2012.

House Bill 3328 also requires the railroad commission to adopt rules requiring an operator to make available on a publicly accessible website a list of all other chemical ingredients not listed on the previously described form that were intentionally included and used to create the hydraulic fracturing fluid. However, an operator, service company, or supplier is not responsible for disclosing ingredients that occur incidentally or were not purposely added to the treatment fluid, and an operator is not responsible for disclosing ingredients that were not disclosed to the operator by a service company or supplier. The railroad commission is required to adopt the rules relating to ingredients not listed on the form not later than July 1, 2013.

**Senate Bill 898**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Cook

Previous law required each political subdivision, institution of higher education, and state agency to set a goal of reducing electricity consumption by five percent each state fiscal year for a specified period and to annually report the entity's efforts and progress to the State Energy Conservation Office (SECO). Senate Bill 898 amends the Health and Safety Code to make that annual reduction a minimum goal for each state fiscal year for 10 years beginning September 1, 2011. The bill requires an entity that does not attain its goals to include in its annual report a justification that it has already implemented all available cost-effective measures and revises the conditions under which such an entity is exempted from further annual reporting requirements.

Senate Bill 898 requires SECO to provide the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System with an annual evaluation of the effectiveness of state and political subdivision energy efficiency programs and requires the laboratory to calculate the amount of energy savings and estimated reduction in pollution achieved and to share that information with the Texas Commission on Environmental Quality, the United States Environmental Protection Agency, and the Electric Reliability Council of Texas to help with long-term forecasting and in estimating pollution reduction.

**Senate Bill 924**  
**Effective:** See below

**Senate Author:** Carona  
**House Sponsor:** Keffer

Previous law established a reporting requirement for a municipally owned utility and an electric cooperative with retail sales of more than 500,000 megawatt hours in 2005 to report not later than September 1, 2009, to the State Energy Conservation Office information regarding the combined effects of the energy efficiency activities of the utility or electric cooperative. Senate Bill 924 amends the Utilities Code, effective September 1, 2011, to instead require such a utility or cooperative to report annually to the office those combined effects from the previous calendar year. The office is required to provide the reports to the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System for the calculation of the energy savings and estimated pollution reductions resulting from the reported activities, and the laboratory is required to share the information with specified entities.

The bill also authorizes a person or entity that provides certain regulated essential products or services to the public to enter into a contract for an emergency notification system, sets out requirements for such a system, and makes these provisions effective June 17, 2011.

**Senate Bill 1125**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Anchia

Current law sets out legislative goals for energy efficiency. One of these goals establishes that each electric utility provide, through targeted market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency for residential and commercial customers equivalent to a calculated amount measured by an annual growth in demand metric. Among other provisions, Senate Bill 1125 amends the Utilities Code to update this goal to change part of the energy efficiency goal metric from annual growth in demand to peak demand and to require the incentives to be provided annually.

Senate Bill 1125 requires the Public Utility Commission of Texas (PUC) to adopt additional rules and procedures relating to achieving the goals for energy efficiency and adds certain programs to the list of programs a utility may choose to implement in order to satisfy energy efficiency goals. The bill sets out alternative methods by which an electric utility operating in an area not open to competition or an electric utility operating in an area open to competition that cannot meet the energy efficiency goals under specified circumstances may achieve the goals. The bill adds provisions relating to energy efficiency plans and reports submitted to the PUC by an electric utility and to the dissemination of public information regarding energy efficiency programs.

**Senate Bill 1150**

**Effective:** 5-28-11

**Senate Author:** Seliger

**House Sponsor:** Frullo

Senate Bill 1150 amends the Utilities Code to make provisions relating to the state's goal for energy efficiency applicable to certain investor-owned electric utilities operating solely outside of the Electric Reliability Council of Texas.

**Senate Bill 1295**

**Effective:** 6-17-11

**Senate Author:** Hegar

**House Sponsor:** Beck

Senate Bill 1295 amends the Texas Surface Coal Mining and Reclamation Act to prohibit the Railroad Commission of Texas from denying an applicant's surface coal mining permit application based on a previous violation by the applicant that occurred in connection with a surface coal mining operation conducted on previously mined land if the violation resulted from an event or condition that was not contemplated in the permit for the surface coal mining operation.

Previous law required performance standards for surface coal mining and reclamation operations to require an operator to assume responsibility for successful revegetation on regraded areas and other affected land for five years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure statutory compliance. The bill makes the requirement applicable only if the land is not previously mined land and, if the land is previously mined land, requires the assumption of responsibility for successful revegetation for two years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure statutory compliance.

Previous law provided that in areas or regions of Texas where the annual average precipitation is 26 inches or less an operator's assumption of responsibility and liability for revegetation extends for 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work. The bill makes the provision applicable only if the land is not previously mined land and, if the land is previously mined land, provides that the assumption of responsibility and liability extends for five years after the last year of augmented seeding, fertilizing, irrigation, or other work.

**Senate Bill 1434**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Geren

Current law requires each unbundled transmission and distribution utility to include in its energy efficiency plan, as part of the state's goal for energy efficiency, a targeted low-income energy efficiency program, with the savings achieved by the program counting toward the utility's energy efficiency goal, unless the funding is provided by the system benefit fund. The Public Utility Commission of Texas (PUC) determines the appropriate level of funding to be allocated to both targeted and standard offer low-income energy efficiency programs in each unbundled transmission and distribution utility service area. Senate Bill 1434 amends the Utilities Code to require the level of funding for low-income energy efficiency programs to be provided from money approved by the PUC for a transmission and distribution utility's energy efficiency programs and require the PUC to ensure that annual expenditures for the targeted low-income energy efficiency programs of each unbundled transmission and distribution utility are not less than 10 percent of the utility's energy efficiency budget for the year. The bill requires a targeted low-income energy efficiency program to comply with the same audit requirements that apply to federal weatherization subrecipients and requires the PUC to participate in energy cost recovery factor proceedings related to the previously described expenditures to ensure that targeted low-income weatherization programs are consistent with federal weatherization programs and adequately funded.

**Senate Bill 1478**  
**Effective:** 5-27-11

**Senate Author:** Hegar  
**House Sponsor:** Crownover

Senate Bill 1478 amends the Natural Resources Code to revise the review periods for new, renewed, and revised surface coal mining permits issued by the Railroad Commission of Texas.

**The summaries for the following bills are in the listed chapters:**

House Bill 3182 - Taxes and Tax Administration

Senate Bill 1505 - Taxes and Tax Administration



# Environment

This chapter covers legislation on issues relating to environmental protection and regulation, including air and water quality, soil decontamination, waste disposal and recycling, and coastal management. Legislation on clean energy projects is in the **Energy Resources** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 218**

**Effective:** 9-1-11

**House Author:** Gallego

**Senate Sponsor:** Uresti

House Bill 218 amends the Health and Safety Code to make it a Class C misdemeanor to knowingly possess a glass container within the boundaries of a state-owned riverbed in a county that is located within 85 miles of an international border and in which at least four rivers are located. The bill provides exceptions and defenses to the offense.

### **House Bill 571**

**Effective:** 9-1-11

**House Author:** Huberty et al.

**Senate Sponsor:** Williams

House Bill 571 amends the Water Code to establish a registration and inspection program for active aggregate production operations to be administered by the Texas Commission on Environmental Quality (TCEQ). TCEQ sets the annual registration fee in an amount not to exceed \$1,000. TCEQ is required to conduct an annual survey of the state to identify all active aggregate production operations and ensure that each one is registered, and may assess a penalty of not less than \$5,000 and not more than \$10,000 for each year in which an aggregate production operation is active without being registered. The total penalty may not exceed \$25,000. TCEQ is required to inspect each aggregate production operation for compliance with applicable environmental laws and rules at least once every three years and sets out content requirements for TCEQ's annual enforcement report.

### **House Bill 1981**

**Effective:** 9-1-11

**House Author:** Smith, Wayne et al.

**Senate Sponsor:** Gallegos

House Bill 1981 amends the Health and Safety Code to require the Texas Commission on Environmental Quality to establish and maintain an air pollutant watch list and to set out requirements for that list. The bill also adds a provision to the Manufacturing Facility Community Right-To-Know Act relating to a required notice issued to the public under certain emergencies involving the release of hazardous chemicals.

### **House Bill 2694**

**Effective:** 9-1-11

**House Author:** Smith, Wayne

**Senate Sponsor:** Huffman

House Bill 2694 amends provisions of the Water Code, Natural Resources Code, and Health and Safety Code relating to the continuation and functions of the Texas Commission on Environmental Quality (TCEQ). The bill continues TCEQ until September 1, 2023, prohibits a member of the commission from accepting a contribution to a campaign for election to an elected office, abolishes the On-site Wastewater Treatment Research Council, and transfers the council's authority to award grants for on-site sewage research to TCEQ. TCEQ, on the bill's effective date, is required to assume the administration of all grants of the On-site Wastewater Treatment Research Council in existence on that date and to assume all contracts held by that agency, including all rights and obligations associated with those contracts.



## Environment

In addition to across-the-board sunset provisions and other provisions, House Bill 2694 authorizes the executive director of TCEQ to directly award a contract for scientific and technical environmental services or engineering services under certain conditions and revises provisions relating to dam safety pertaining to an agreement with or exemption for the owner of a dam.

House Bill 2694 transfers from TCEQ to the Railroad Commission of Texas the requirement to issue, on request from an applicant for a permit for a disposal well, a letter of determination stating the total depth of surface casing required for a well drilled into oil or gas bearing rock. The bill requires the railroad commission to work cooperatively with appropriate state agencies to study and evaluate electronic access to geologic data and surface casing depth necessary to protect usable groundwater in Texas and to establish groundwater protection requirements for operations within the railroad commission's jurisdiction, including requirements relating to the depth of surface casing for wells.

House Bill 2694 revises and updates provisions relating to public education and assistance and the office of public interest counsel; provisions governing standards for evaluating and using compliance history, including additional procedural requirements; and provisions pertaining to enforcement policies. The bill increases the penalties for certain violations and updates provisions setting out fees imposed on the delivery of a petroleum product on withdrawal from bulk of that product. The bill authorizes TCEQ to impose an administrative penalty against a person who delivers any regulated substance into an underground storage tank regulated under a provision establishing an owner's or operator's duty to ensure certification of a tank before delivery. The bill provides an affirmative defense to the imposition of this penalty.

House Bill 2694 sets out administrative procedures on a permit amendment application for certain electric generating facilities that expire on the sixth anniversary of the date the administrator adopts standards for existing electric generating facilities under the federal Clean Air Act unless a stay of the rules is granted.

House Bill 2694 sets out provisions relating to water rights, including procedures that govern water rights during a period of drought or other emergency shortage of water and actions the executive director of TCEQ may take under such an emergency. The bill also sets out provisions requiring the executive director of TCEQ to complete a technical review of certain water management plans submitted on an application to amend a plan. Current law authorizes the executive director of TCEQ to appoint one watermaster for each water division and provides that the executive director has the powers of a watermaster in a district in which the watermaster position is vacant. The bill clarifies the executive director's duties in regard to a water basin in which no watermaster has been appointed. The bill creates the low-level radioactive waste disposal compact commission account and sets out provisions for funding the account and appropriating those funds. The bill requires the state agency with jurisdiction over rates charged by water and sewer utilities to provide, at a reasonable cost, electronic copies of specified information. If the Office of Public Utility Counsel requests this information, it must be provided to the office at no cost. Current law requires certain entities to collect a fee for each on-site wastewater treatment permit application processed and previous law required the proceeds from this fee to be deposited to the credit of the on-site wastewater treatment research account. The bill instead requires the proceeds to be deposited to the credit of the water resources management account. In addition, the bill revises certain contested case hearing procedures relating to notice, discovery, and the required participation of the executive director of TCEQ.

**Senate Bill 20**  
**Effective:** 9-1-11

**Senate Author:** Williams et al.  
**House Sponsor:** Strama et al.

Senate Bill 20 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (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. The program provides grants to eligible vehicles to offset the incremental cost to the entity of repowering or replacing a vehicle. The bill sets out provisions relating to vehicles that are qualified to be considered for a grant, the application and eligibility requirements for a grant, the calculation of the amount of a grant, restrictions on a grant's use, procedures for administering the grants, and requirements for participating dealers of certain natural gas vehicles. Senate Bill 20 requires TCEQ 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 and sets out the conditions for awarding such grants. The provisions relating to the Texas natural gas vehicle grant program expire August 31, 2017.

Senate Bill 20 requires TCEQ to establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel in nonattainment areas and to provide grants for eligible facilities to offset the cost of those facilities. An entity that constructs, reconstructs, or acquires an alternative fueling facility is eligible to participate in the program. The bill sets out provisions relating to the grant application, criteria for prioritizing eligible facilities, the calculation of the amount of a grant, and restrictions on the use of a grant. The provisions relating to the Texas alternative fueling facilities program expire August 31, 2018.

Current law requires money in the Texas emissions reduction plan fund to be used only to implement and administer a program established under the plan and sets out specified allocations. Senate Bill 20 adds allocations related to the new programs described above and sets out conditions under which TCEQ may reallocate money in the fund designated for the Texas alternative fueling facilities program.

**Senate Bill 329**  
**Effective:** 9-1-11

**Senate Author:** Watson et al.  
**House Sponsor:** Chisum et al.

Senate Bill 329 amends the Health and Safety Code to prohibit a person, including a television manufacturer, from selling or offering for sale new covered television equipment in Texas unless the equipment has been labeled with a permanently affixed and readily visible television manufacturer's brand label, applicable only to covered television equipment that is offered for sale or sold to a consumer in Texas or is used by a consumer in Texas and returned for recycling. Among other provisions relating to the responsibilities of the Texas Commission on Environmental Quality (TCEQ), retailers, recyclers, and consumers regarding the sale, recovery, and recycling of covered television equipment, the bill establishes provisions relating to a manufacturer's registration with TCEQ, a television recycling account in the general revenue fund, a manufacturer's recovery plan and related responsibilities, a manufacturer's recycling leadership program, and a collection report. Senate Bill 329 establishes a penalty for noncompliance but provides that a retailer of television equipment may sell television equipment inventory that the retailer acquired before September 1, 2012, without incurring the penalty.

**Senate Bill 385**  
**Effective:** 9-1-11

**Senate Author:** Williams et al.  
**House Sponsor:** Otto et al.

Senate Bill 385 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel in nonattainment areas and to provide grants for eligible facilities to offset the cost of those facilities. An entity that constructs, reconstructs, or acquires an alternative fueling facility is eligible to participate in the program. The bill sets out provisions relating to the grant application, criteria for prioritizing eligible

facilities, the calculation of the amount of a grant, and restrictions on the use of a grant. The provisions relating to the Texas alternative fueling facilities program expire August 31, 2018.

Senate Bill 385 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. The program provides grants to eligible vehicles to offset the incremental cost to the entity of repowering or replacing a vehicle. The bill sets out provisions relating to qualifying vehicles, the application and eligibility requirements for a grant, the calculation of the amount of a grant, restrictions on a grant's use, procedures for administering the grants, and requirements for participating dealers of certain natural gas vehicles. Senate Bill 385 requires TCEQ 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 and sets out the conditions for awarding such grants. The provisions relating to the Texas natural gas vehicle grant program expire August 31, 2017.

Current law requires money in the Texas emissions reduction plan fund to be used only to implement and administer a program established under the plan and sets out specified allocations. Senate Bill 385 adds allocations related to the new programs described above and sets out conditions under which TCEQ may reallocate money in the fund that is designated for the Texas alternative fueling facilities program.

**Senate Bill 656**  
**Effective:** 9-1-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Bonnen

Senate Bill 656 amends the Agriculture Code and Natural Resources Code to abolish the Coastal Coordination Council and transfer the council's powers and duties to the General Land Office (GLO) and the commissioner of the GLO and makes provisions for a transition to such an arrangement. The bill includes the commissioner among the entities required to perform the duties relating to the management of coastal public land.

Previous law required the GLO to develop a long-term plan for the management of uses affecting coastal natural resource areas. The bill requires the GLO to implement a comprehensive coastal management program for the management of such uses and authorizes the commissioner to award grants to projects that further the goals and policies of the program. The bill requires the commissioner by rule to establish the Coastal Coordination Advisory Committee to advise on matters related to the program and authorizes the commissioner to review certain proposed state agency or subdivision actions that may adversely affect a coastal natural resource area for consistency with the program goals and policies under certain conditions.

Previous law provided for the creation by council rule of a permitting assistance group composed of representatives of council member agencies and other interested council members to coordinate preliminary consistency reviews. The bill recomposes the group to include representatives of committee member agencies and other interested committee members and establishes a temporary provision requiring the commissioner to evaluate the functions, membership, and usefulness of the group. The commissioner is authorized to adopt rules as necessary to restructure or abolish the group, expand its functions, or add members.

The bill authorizes the commissioner by rule to modify, in addition to establishing, a process by which an agency may submit rules and rule amendments for review and certification for consistency with program goals and policies. The bill requires the commissioner to adopt guidance rules, in addition to procedural rules, for the review of federal actions, activities, and outer continental shelf plans that incorporate the provisions of federal regulations governing those reviews and requires the commissioner to review any such action, activity, or plan that any

three committee members agree presents a significant unresolved issue regarding consistency with program goals and policies.

The bill, on request for referral, prohibits the commissioner from reviewing a consistency determination of the GLO, the commissioner, or the School Land Board. The bill requires the commissioner to refer a request for a review to the attorney general, requires the attorney general to determine whether the action is consistent with program goals and policies, and, if the action is determined to be inconsistent, authorizes the attorney general to protest the action. The bill establishes that a protest by the attorney general has the same effect as a protest by the commissioner and authorizes the attorney general to adopt rules as necessary to implement these provisions relating to the review of a consistency determination.

**Senate Bill 694**

**Effective:** See below

**Senate Author:** West

**House Sponsor:** Smith, Wayne et al.

Among other provisions related to metal recycling entities, current law requires a person who operates a metal recycling entity to hold a certificate of registration for that business and authorizes a county, municipality, or political subdivision of Texas to issue a license or permit to a business to allow the business to act as a metal recycling entity in that county or municipality and imposes a criminal penalty on a seller who commits certain violations. Senate Bill 694 amends the Occupations Code to expand the list of information a seller of regulated material must provide to a metal recycling entity receiving the material to include specified documentation verifying the origin of condensing or evaporator coils for central heating or air conditioning units or insulated communications wire that has been burned wholly or partly to remove the insulation. The bill authorizes a county, municipality, or other political subdivision to require the record of purchase to contain a clear and legible thumbprint of a seller of regulated material. The bill expands the definition of “regulated metal” to include additional items.

Senate Bill 694 requires a metal recycling entity to include additional information in the required record of purchase for each transaction and to include a digital photograph or video recording that accurately depicts the seller’s entire face and each type of regulated metal purchased. The bill establishes requirements relating to the preservation of records and cash payment for a purchase of regulated material. Current law requires a metal recycling entity to allow a Texas peace officer to conduct an inspection of certain items. The bill authorizes this inspection to be conducted by a representative of the Department of Public Safety (DPS) or a representative of a county, municipality, or other political subdivision that issues a license or permit.

Senate Bill 694 creates criminal and civil penalties, exceptions, and an affirmative defense to prosecution for specified violations and sets out requirements for an action enjoining the business operations of a metal recycling entity. The bill authorizes a municipality to retain 10 percent of the money collected from a fine for a conviction of an offense as a service fee with the remainder distributed to DPS to administer various provisions governing metal recycling entities.

Senate Bill 694 authorizes DPS to use the information provided to the statewide electronic reporting system for law enforcement purposes; provides that the information is not subject to disclosure under the public information law; requires a county, municipality, or other political subdivision to include a confidentiality clause in regard to information related to the sale of regulated material in any contract entered into by one of these political subdivisions with a specified third party that has access to the information; and requires DPS to include a confidentiality clause in a contract with a third party relating to the operation of the statewide electronic reporting system.

Senate Bill 694 requires DPS to establish an advisory committee to advise DPS on matters related to the department’s regulation of metal recycling entities and to make available on its

Internet website a publicly accessible list of all registered metal recycling entities. DPS is required to establish and implement a prevention of scrap metal theft grant program. The bill requires the Public Safety Commission to adopt rules relating to burned insulated communications wire no later than December 1, 2011. Provisions relating to information regarding the seller and an offense relating to burned insulated communications wire take effect January 1, 2012. Provisions relating to certain criminal and civil penalties and prohibited acts take effect March 1, 2012. All other provisions take effect September 1, 2011.

## Air Quality

### **House Bill 1906**

**Effective:** 9-1-11

**House Author:** Howard, Donna

**Senate Sponsor:** Fraser

House Bill 1906 amends the Water Code to make it a Class C misdemeanor for a person to violate a rule adopted by the Texas Commission on Environmental Quality concerning locally enforced vehicle idling limitations.

### **House Bill 3268**

**Effective:** 6-17-11

**House Author:** Lyne

**Senate Sponsor:** Estes

House Bill 3268 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to issue a standard permit or permit by rule that establishes emission limits for air contaminants released by a stationary natural gas internal combustion engine, a natural gas stationary internal combustion reciprocating engine, or a natural gas turbine used in a combined heating and power system, measured in terms of air contaminant emissions per unit of total energy output. The bill requires TCEQ to consider both the primary and secondary functions when determining the engine's emissions per unit of output. The bill prohibits TCEQ, during the permit adoption process, from distinguishing between the end-use functions powered by a stationary natural gas engine and sets out the information that TCEQ may consider in the process. The bill requires TCEQ to adopt any required rules relating to these provisions not later than September 1, 2012.

### **House Bill 3272**

**Effective:** 9-1-11

**House Author:** Burnam et al.

**Senate Sponsor:** Deuell

Current law requires the Texas Commission on Environmental Quality to adopt guidelines to assist a participating county in implementing a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program and sets eligibility requirements for vehicles participating in the program. House Bill 3272 amends the Health and Safety Code to change the amount of time a participating vehicle must be registered in a county preceding the application for participation in the program. The bill also revises the guidelines regarding the maximum amount allowed toward the purchase price of a replacement vehicle of a certain model year, type, and certification and regarding the maximum odometer reading and cost of such a vehicle. The bill provides additional requirements relating to the disposition of a retired vehicle.

### **House Bill 3399**

**Effective:** 9-1-11

**House Author:** Legler et al.

**Senate Sponsor:** Williams

House Bill 3399 amends the Health and Safety Code to set out provisions relating to the decommissioning of a heavy-duty motor vehicle or engine under the diesel emissions reduction incentive program and to revise eligibility requirements for grants provided under the Texas clean fleet program.



**Senate Bill 493**  
**Effective:** 6-17-11

**Senate Author:** Fraser  
**House Sponsor:** Smith, Wayne

Senate Bill 493 amends the Health and Safety Code to prohibit the Texas Commission on Environmental Quality 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 a state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling. The bill provides for an increase of maximum gross vehicle and axle weight limits for a vehicle with an idle reduction system to compensate for the weight of the system.

**Senate Bill 527**  
**Effective:** 9-1-11

**Senate Author:** Fraser et al.  
**House Sponsor:** Geren et al.

Current law establishes the Texas emissions reduction plan and provides a list of projects that may be funded through the plan. Senate Bill 527 amends the Health and Safety Code to add projects to the list and revises provisions relating to the fund's allocation requirements. The bill changes the name of the new technology research and development program to the air quality research support program.

**Senate Bill 875**  
**Effective:** 6-17-11

**Senate Author:** Fraser  
**House Sponsor:** Hancock et al.

Senate Bill 875 amends the Water Code to create an affirmative defense to an administrative, civil, or criminal action brought under the code against a person for nuisance or trespass arising from greenhouse gas emissions, except for a nuisance action solely based on a noxious odor, if the person's actions that resulted in the alleged nuisance or trespass were authorized by the Texas Commission on Environmental Quality or the federal government and the person was in substantial compliance with that authorization or the applicable entity exercised enforcement discretion in connection with the person's actions.

**Senate Bill 1003**  
**Effective:** 6-17-11

**Senate Author:** Fraser  
**House Sponsor:** Smith, Wayne

Senate Bill 1003 amends the Water Code to authorize the Texas Commission on Environmental Quality (TCEQ) to assess a penalty for operating a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing without a preconstruction permit under the Texas Clean Air Act or for any other violation within the jurisdiction of TCEQ if a person operating the facility holds any type of permit issued by TCEQ other than the permit required for the facility. Previous law required TCEQ to issue an emergency order suspending operations of a facility that is operating without the required permit. The bill changes that requirement to an authorization.

**Senate Bill 1134**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Craddick

Senate Bill 1134 amends the Health and Safety Code to prohibit the Texas Commission on Environmental Quality (TCEQ) from adopting a new permit or a new standard permit or amending an existing permit or an existing standard permit relating to new facilities or modifications to existing facilities that belong to certain Standard Industrial Classification Codes unless TCEQ performs specified actions. The bill provides an exception for permits to authorize planned maintenance, start-up, or shutdown activities for these facilities and creates an affirmative defense for an unauthorized emission or opacity event from one of these planned activities under certain conditions.



## Environment

Senate Bill 1134 authorizes TCEQ to amend an air permit adopted under the Texas Clean Air Act to require the permit holder to provide TCEQ with information about the facility, including the location of the facility, and to require any facility handling sour gas to be a minimum distance from a recreational area, 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. The bill sets out requirements for the aggregation of facilities as determined by their Standard Industrial Classification Codes.

**Senate Bill 1250**

**Effective:** 9-1-11

**Senate Author:** Lucio

**House Sponsor:** Lozano

Senate Bill 1250 amends the Health and Safety Code to exempt certain concrete crushing facilities from restrictions on the location and operation of such facilities. This provision is applicable to a facility that operates in an enclosed building within 25 miles of an international border in a municipality with a population of not less than 6,100 but not more than 20,000 and crushes the concrete in the manufacture of products that contain recycled materials.

## Waste Disposal

**House Bill 240**

**Effective:** 9-1-11

**House Author:** Parker

**Senate Sponsor:** Nelson

House Bill 240 amends the Health and Safety Code to require the Texas Commission on Environmental Quality to adopt rules requiring 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 persons licensed or registered by the Texas Commission on Environmental Quality.

**House Bill 444**

**Effective:** 5-21-11

**House Author:** Creighton et al.

**Senate Sponsor:** Nichols

House Bill 444 amends the Injection Well Act in the Water Code to require the executive director of the Texas Commission on Environmental Quality to submit a copy of an application for a permit for an injection well to dispose of industrial and municipal waste to the governing body of a groundwater conservation district if the application is received in proper form and the proposed location of the injection well is in the territory of the district. The bill requires the record of a proceeding to include evidence that a copy of each draft permit proposed by the executive director was provided and evidence that notice of a contested case hearing was mailed to the governing body of the district before any testimony is heard in a contested case regarding such an application.

**Senate Bill 1258**

**Effective:** 5-17-11

**Senate Author:** Duncan

**House Sponsor:** Hardcastle

Senate Bill 1258 amends the Health and Safety Code to authorize the Texas Commission on Environmental Quality (TCEQ) to issue a permit to authorize the governing body of a county or a municipality with a population of 10,000 or less to dispose of demolition waste from certain buildings if the disposal occurs on land owned or controlled by the governmental entity that would qualify for an arid exemption under TCEQ rules. The bill requires TCEQ to adopt rules relating to the disposal of demolition waste under these provisions to protect certain public and private property rights.

**Senate Bill 1504****Effective:** 9-1-11**Senate Author:** Seliger et al.**House Sponsor:** Lewis

Senate Bill 1504 amends the Health and Safety Code to authorize the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility license holder to accept for disposal at that facility certain approved nonparty low-level radioactive waste to the extent the acceptance does not diminish the disposal volume or curie capacity available to party states. The Texas Commission on Environmental Quality (TCEQ) is required to assess a surcharge for the disposal of nonparty compact waste. The bill establishes authorizations, including rulemaking authority, requirements, and prohibitions relating to the disposal of nonparty compact waste.

The bill requires TCEQ to study the available volume and curie capacity of the compact waste disposal facility for the disposal of both party state compact waste and nonparty compact waste and to review the adequacy of the financial assurance mechanisms of the license holder that were approved before January 1, 2011. The Texas Low-Level Radioactive Waste Disposal Compact Commission is required to use the capacity study to anticipate the facility's future capacity needs. The bill sets out administrative provisions relating to the adoption and revision of compact waste disposal fees.

The bill authorizes the license holder, 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 and makes the rates and contract terms subject to review and approval by TCEQ's executive director. The bill requires TCEQ to only consider capital investment in property by the license holder that is used and useful to the facility in determining compact waste disposal fees and prohibits TCEQ from considering capital investment costs or related costs incurred before September 1, 2003, in determining disposal fees.

Current law authorizes the state to enter into a compact for the disposal of waste only if the compact meets certain conditions, among them a condition that limits the total volume of all waste to be disposed of in Texas that is based on an annual average of waste projected to be produced in Texas during a specified period. Senate Bill 1504 changes this condition to specify that the limit applies to party state waste and is based on the annual average of waste that is projected to be disposed of in Texas during that period. The bill establishes terms and conditions for a state to become a party state to the Texas Low-Level Radioactive Waste Disposal Compact.

A holder of a license or permit that authorizes the storage, for more than one year at or adjacent to the compact waste disposal facility, of a radioactive waste or elemental mercury from other persons is required to remit a specified fee each quarter to TCEQ.

**Senate Bill 1605****Effective:** 9-1-11**Senate Author:** Seliger**House Sponsor:** Lewis et al.

Senate Bill 1605 amends the Health and Safety Code to prohibit a low-level radioactive waste disposal facility licensed by the Texas Commission on Environmental Quality (TCEQ) from accepting Texas Low-Level Radioactive Waste Disposal Compact waste at the facility unless the Texas Low-Level Radioactive Waste Disposal Compact Commission has adopted bylaws necessary to carry out the terms of the compact. The bill establishes that the commission is an independent entity and prohibits money for the commission from being appropriated as part of an appropriation for TCEQ. The bill subjects the commission to review, but not abolishment, under the Texas Sunset Act, subjects the commission to audit by the state auditor, and changes the terms of the host state commissioners to staggered six-year terms.

## Water Quality

### **House Bill 451**

**Effective:** 9-1-11

**House Author:** Lucio III et al.

**Senate Sponsor:** Hegar

House Bill 451 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to establish a Don't Mess with Texas Water 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 to call to report illegal dumping, and to require TCEQ to establish a toll-free number hotline that will forward calls to the appropriate law enforcement agency. The bill authorizes a local government to work with TCEQ to participate in the program, requires the Texas Department of Transportation (TxDOT) to cooperate with TCEQ in the placement of signs, and 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.

### **House Bill 965**

**Effective:** 9-1-11

**House Author:** Callegari et al.

**Senate Sponsor:** Hegar

House Bill 965 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) by rule adopted not later than December 1, 2011, to provide a method for a person who holds a license to discharge wastewater from a sewage treatment facility or a license relating to the protection of public water facilities to certify at the time the license is renewed that the license holder has complied with TCEQ's continuing education requirements. The bill also authorizes continuing education programs that are available through the Internet.

### **House Bill 2826**

**Effective:** 9-1-11

**House Author:** Murphy et al.

**Senate Sponsor:** Huffman

Current law requires a person seeking a municipal setting designation to provide, on or before the date of submission of an application for a designation, a notice to certain entities that includes information specified in law. House Bill 2826 amends the Health and Safety Code to add to this information a statement that a municipality with a population of two million or more under specified circumstances has 120 days from the date of receipt of the notice to pass a resolution opposing the application. The bill sets out conditions under which the applicant is eligible to receive a municipal setting designation certificate for a property located in such a municipality.

### **Senate Bill 408**

**Effective:** Vetoed

**Senate Author:** Estes

**House Sponsor:** Keffer

Previous law required visual inspections and drawing of water samples of the John Graves Scenic Riverway to be conducted at least once in a winter month and at least once in a summer month and required the visual inspections to be conducted both from the surface of the riverway and from an aircraft flying over the riverway. Senate Bill 408 amends the Water Code to require a visual inspection from an aircraft flying over the riverway to be conducted at least once in a winter month and at least once in a summer month, and to require a visual inspection and the drawing of water samples for testing to be conducted from the surface of the riverway at least once in a spring month and at least once in a fall month.

The bill requires the Texas Commission on Environmental Quality by rule to prohibit the commercial or recreational use of certain craft on the waters of the riverway, with certain exceptions, and makes it a Class C misdemeanor to operate a hovercraft or watercraft in violation of such an adopted rule.

Reason Given for Veto: “Senate Bill 408 includes a provision that would prohibit the use of boats or other crafts that use an aircraft-type propeller for propulsion on approximately 113 miles of the John Graves Scenic Riverway. Attempting to balance private property rights with water conservation and recreational use of this riverway is laudable. However, I am vetoing Senate Bill 408 at the request of the bill’s sponsor, and I am directing the Texas Parks and Wildlife Department and the Texas Commission on Environmental Quality (TCEQ) to study and report the potential effects of a prohibition of the commercial or recreational use of these types of boats on the riverway. This review will be part of TCEQ’s biennial report to the legislature.”

**Senate Bill 525**  
**Effective:** 4-29-11

**Senate Author:** Deuell  
**House Sponsor:** Phillips

Current law establishes legislative findings relating to areas that surround Lake Alan Henry, Lake Cooper, Lake Ralph Hall, and Post Lake. Senate Bill 525 amends the Local Government Code to include the area that surrounds Lower Bois d’Arc Creek Reservoir in such findings, establish a finding that development in those areas may impact the water quality in the lakes and the reservoir, and make statutory provisions regarding county zoning authority in the areas applicable to the area within 5,000 feet of where the shoreline of the reservoir would be if the reservoir were filled to its storage capacity. The bill repeals a provision relating to the conditional expiration of the application of such statutory provisions to certain areas surrounding Lake Ralph Hall.

**The summary for the following bill is in the listed chapter:**  
Senate Bill 197 - Transportation





## Family Law

This chapter covers legislation on issues relating to family law, the marriage relationship, spousal support, child custody and support, parental rights, adoption, foster care, family violence, and child protective services. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 452**

**Effective:** 6-17-11

**House Author:** Lucio III et al.

**Senate Sponsor:** Lucio

House Bill 452 amends the Education Code to require each institution of higher education to assist an eligible postsecondary student who has been under the conservatorship of the Department of Family and Protective Services, on the student's request, in locating temporary housing between academic terms. The bill sets out the conditions for eligibility and authorizes an institution, for each eligible student who also demonstrates financial need, to provide a stipend to cover reasonable costs of the temporary housing that are not covered by other financial aid immediately available to the student or to provide temporary housing directly to the student.

#### **House Bill 807**

**Effective:** 9-1-11

**House Author:** Parker

**Senate Sponsor:** Nelson

House Bill 807 amends the Family Code to require, except in certain specified circumstances, that the Department of Family and Protective Services provide a minimum of 48 hours' written notice to a residential child-care facility and child-placing agency involved with a child before changing the child's residential child-care facility.

#### **House Bill 824**

**Effective:** 6-17-11

**House Author:** Villarreal et al.

**Senate Sponsor:** Van de Putte

House Bill 824 amends the Health and Safety Code to require the attorney general to develop and periodically update a publication containing specified information 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. The bill requires the attorney general to consult with certain state agencies and organizations in the development of the publication and sets out requirements relating to the publication's availability to the public and certain agencies, organizations, and entities.

#### **House Bill 943**

**Effective:** 9-1-11

**House Author:** Dukes

**Senate Sponsor:** Nelson

House Bill 943 amends the Family Code to establish reporting requirements for a child in the managing conservatorship of the Department of Family and Protective Services (DFPS) missing from the child's substitute care provider, including requiring DFPS to notify within a specified time frame certain entities and individuals that a child is missing or that a child has returned to the child's substitute care provider, to make continuing efforts to determine the location of a missing child until the child returns to substitute care, and to document certain information in a missing child's case record. The bill requires DFPS, after a missing child returns to the child's substitute care provider, to interview the child to determine why the child was missing and where the child was staying and to report any disclosure made by the child that indicates the child was

a victim of a crime during the time the child was missing. The bill amends the Code of Criminal Procedure to set a two-hour maximum time limit on the requirement for local law enforcement agencies immediately to enter certain information into certain missing persons databases after receiving a report of a missing child or other missing person.

**House Bill 2170**  
**Effective:** 9-1-11

**House Author:** Raymond et al.  
**Senate Sponsor:** Davis et al.

House Bill 2170 amends the Family Code to establish state policy for each child in foster care to be informed of the child's rights provided by the state or federal law or policy outlined in the foster children's bill of rights. The bill sets out provisions relating to distribution of the bill of rights and related information to children by the Department of Family and Protective Services and applicable facilities, a child's written acknowledgment of understanding the bill of rights, educating foster children about the bill of rights, and the development and implementation of a policy for receiving and handling reports that the rights of foster children are not being observed.

**House Bill 2370**  
**Effective:** 9-1-11

**House Author:** Dukes  
**Senate Sponsor:** West

House Bill 2370 amends the Family Code to require the Department of Family and Protective Services or a licensed child-placing agency, at the time a person applies to become licensed or verified to provide care under the permanency care assistance program, to notify the applicant that a background check, including a criminal history check, will be conducted. Those entities are required to inform the applicant about criminal convictions that preclude a person from becoming a licensed or verified foster home and may also be considered in the application evaluation.

**House Bill 2488**  
**Effective:** 5-30-11

**House Author:** Scott  
**Senate Sponsor:** Harris

House Bill 2488 amends the Family Code to require the custodian of a child's medical, mental health, or drug or alcohol treatment record that is privileged or confidential under other law to release the record, without requiring a further order or release, to an attorney ad litem, a guardian ad litem for the child, or an amicus attorney appointed in a suit affecting the parent-child relationship who is authorized to access the record. The bill limits the release of a child's drug or alcohol treatment record that is confidential under federal law only as provided under applicable federal regulations. The bill specifies that such a disclosure does not affect the confidentiality of the record and that physician fees apply to the disclosure. The bill prohibits the person provided access to the record from disclosing the record further except as provided by court order or other law and requires records obtained as provided by the bill to be destroyed on termination of the applicable appointment.

**House Bill 2560**  
**Effective:** 6-17-11

**House Author:** Sheffield et al.  
**Senate Sponsor:** Estes

House Bill 2560 amends the Human Resources Code to prohibit the Department of Family and Protective Services from prohibiting the 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 and in the possession and control of the foster parent, who is licensed to carry a concealed handgun.

**House Bill 3311**  
**Effective:** 9-1-11

**House Author:** Carter  
**Senate Sponsor:** Nelson

Current law requires an attorney ad litem appointed for a child in a suit affecting the parent-child relationship to meet with the child or, if the child is younger than four years of age, with

the individual with whom the child resides before each court hearing. House Bill 3311 amends the Family Code to require that each meeting take place a sufficient time before the hearing to allow the attorney to prepare for the hearing in accordance with the child's expressed objectives of representation and in a private setting that allows for confidential communication between the attorney and the child or individual with whom the child resides, as applicable.

**House Bill 3314**  
**Effective:** 9-1-11

**House Author:** Carter  
**Senate Sponsor:** Nelson

Current law requires an attorney ad litem appointed for a child in certain proceedings relating to the parent-child relationship to meet before each court hearing with the child or the individual with whom the child ordinarily resides, depending on the child's age. House Bill 3314 amends the Family Code to require the attorney ad litem to file a written statement with the court indicating that the attorney ad litem complied with that requirement if the child or individual is not present at the court hearing.

**House Bill 3531**  
**Effective:** 9-1-11

**House Author:** Strama et al.  
**Senate Sponsor:** Nelson

House Bill 3531 amends the Government Code to require the Health and Human Services Commission (HHSC) to implement a system under which HHSC will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for certain children in foster care that includes, as a component of the system, a medical review of a prescription when appropriate.

**House Bill 3833**  
**Effective:** 9-1-11

**House Author:** Phillips  
**Senate Sponsor:** Harris

House Bill 3833 amends the Family Code to enact the Collaborative Family Law Act establishing a uniform collaborative family law process for matters arising under provisions relating to the marriage relationship or the parent-child relationship.

**Senate Bill 219**  
**Effective:** 9-1-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Gonzalez

Current law requires the Department of Family and Protective Services (DFPS) to include training in trauma-informed programs and services in any training the department provides to foster and adoptive parents, kinship caregivers, and department caseworkers. Senate Bill 219 amends the Family Code to require department supervisors to receive that training, to require caseworkers and supervisors to complete an annual refresher training course, and to require DFPS to annually evaluate the effectiveness of the training.

Senate Bill 219 amends the Government Code to require the Health and Human Services Commission (HHSC) to explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of Texas and to encourage such providers to use telemedicine medical services as appropriate. Among other provisions, the bill requires a contract between a managed care organization and HHSC for the provision of health care services to recipients under the STAR Health program to require trauma-informed care training to be offered to each contracted physician or provider.

**Senate Bill 1216**  
**Effective:** 6-17-11

**Senate Author:** Estes  
**House Sponsor:** Hartnett

Senate Bill 1216 amends the Family Code to require a court, if a party to a suit for dissolution of a marriage or 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. The bill 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. Such a determination does not affect the court's authority to stay arbitration or refuse to compel arbitration on any other ground provided by law. The bill exempts from its provisions a court order or certain court-approved agreements.

## **Child Custody and Parental Rights**

### **House Bill 149**

**Effective:** 6-17-11

**House Author:** Raymond

**Senate Sponsor:** Zaffirini

House Bill 149 amends provisions of the Family Code relating to the appointment of a volunteer parenting coordinator or parenting facilitator in a suit affecting the parent-child relationship in which the parties are unable to pay the fees of a parenting coordinator or parenting facilitator due to hardship and a domestic relations office or a comparable county agency is not available to serve that function. The bill clarifies that a person appointed to such a position, including an employee of the court, is required to meet the minimum qualifications established for a parenting coordinator or parenting facilitator, as applicable, and that the person serves without compensation.

### **House Bill 906**

**Effective:** 9-1-11

**House Author:** Thompson

**Senate Sponsor:** Rodriguez

House Bill 906 amends provisions of the Family Code relating to the mandatory appointment of an attorney ad litem for a parent or alleged father in a suit affecting the parent-child relationship filed by a governmental entity in which the termination of the parent-child relationship or appointment of the entity as conservator of the child is requested. The bill establishes the duration of such an appointment and establishes a presumption relating to the indigence of a parent subject to such a suit and any subsequent appeal unless the court determines that the parent is no longer indigent due to a material and substantial change in the parent's financial circumstances. The bill clarifies that an appeal from a final order rendered in a suit affecting the parent-child relationship is governed as in civil cases generally under the Texas Rules of Appellate Procedure.

House Bill 906 also amends provisions governing the appeal of a final order rendered with respect to the placement of a child in the care of the Department of Family and Protective Services (DFPS). The bill specifies that such an appeal is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure and requires the final order to contain a specified statement regarding an affected party's right to appeal. The bill removes provisions establishing specific appeal procedures and instead requires the Supreme Court of Texas to adopt rules accelerating the disposition by the appellate court and the supreme court of an appeal of a final order granting termination of the parent-child relationship for a child under the care of DFPS.

### **House Bill 2367**

**Effective:** 6-17-11

**House Author:** Parker et al.

**Senate Sponsor:** Uresti

House Bill 2367 establishes the Parental Rights Advisory Panel to study and provide recommendations to the legislature regarding a parent's right to possession of or access to the parent's child, including interference with that right by the other parent, when no court order for possession of or access to a child is in effect or pending and when the party allegedly interfering with the rights of a parent is not aware of any plans by the parent to seek an order for possession

of or access to a child. The bill requires the advisory panel to submit to the legislature, not later than December 31, 2012, a report outlining the results of its studies and its recommendations for legislation. The advisory panel is abolished September 1, 2013.

**Senate Bill 482**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Jackson

Senate Bill 482 amends provisions of the Family Code relating to an authorization agreement entered into by one or both parents of a child with a nonparent relative authorizing the relative to perform certain acts with regard to the child. The bill authorizes only one authorization agreement to be in effect for a child at any time and expands the required contents of an authorization agreement for a nonparent relative.

Current law sets a deadline by which the parties to an authorization agreement that is not signed by both parents are required to mail a copy of the executed agreement to the parent who was not a party to the agreement. Senate Bill 482 requires the copy to be mailed by certified mail or international registered mail, return receipt requested, and sets a deadline by which the parties are required to mail a second copy by first class mail or international first class mail if the parties do not receive a response from the parent who is not a party to the agreement before the 20th day after the date the first copy is mailed. The mailing requirements do not apply to an agreement if the parent who is not a party does not have court-ordered possession of or access to the child or has previously committed an act of family violence or assault against certain family members.

**Senate Bill 502**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Thompson

Previous law authorized a signatory in an acknowledgment or denial of paternity to rescind the acknowledgment or denial by commencing a proceeding to rescind before a specified deadline and established a procedure for such a proceeding. Senate Bill 502 amends the Family Code to remove that authorization and instead authorize a signatory to rescind an acknowledgment or denial of paternity by filing with the bureau of vital statistics a completed rescission, on a form prescribed by the bureau, in which the signatory makes certain declarations under penalty of perjury. The bill includes provisions relating to the deadline for filing a rescission, the voiding of an acknowledgment or denial of paternity affected by a completed rescission and the amendment of the birth record of the child, proceedings to contest a rescission and challenge an acknowledgment or denial of paternity, and conditions under which a proceeding to adjudicate the parentage of a child having a presumed father may be maintained. The bill makes it a third degree felony for a person to alter, destroy, conceal, fabricate, or falsify genetic evidence in a proceeding to adjudicate parentage and makes an order excluding a man as the biological father of a child based on genetic evidence shown to be altered, fabricated, or falsified void and unenforceable.

**Senate Bill 785**  
**Effective:** 5-12-11

**Senate Author:** Harris  
**House Sponsor:** Thompson

Senate Bill 785 amends the Family Code to establish a process by which a man may file a suit for termination of the parent-child relationship between the man and a child if, without obtaining genetic testing, the man signed an acknowledgment of paternity of the child or was adjudicated to be the father of the child in a previous proceeding in which genetic testing did not occur. Among other provisions, the bill requires the court in such a proceeding to order the petitioner and the child to submit to genetic testing if the petitioner establishes a meritorious prima facie claim for termination of the parent-child relationship. The bill requires the court to render an order terminating the parent-child relationship if the results of the genetic testing exclude the petitioner as the child's genetic father and establishes that the petitioner's obligation



for future support of the child ends as of the date on which such an order is rendered. The order does not affect the petitioner's obligations to pay support of the child incurred before the date of the order or interest accrued after that date on the basis of existing arrearages.

**Senate Bill 820**  
**Effective:** 9-1-11

**Senate Author:** Harris et al.  
**House Sponsor:** Thompson

Senate Bill 820 amends the Family Code to require a court rendering an order for possession of a child less than three years of age to consider evidence of all relevant factors. The bill lists specified factors that must be considered, requires the court to make findings in support of the order if a party files a written request with the court not later than the 10th day after the date of the hearing or if a party makes an oral request in court during the hearing on the order, and requires the court to make and enter the required findings not later than the 15th day after the date the party makes the request.

**Senate Bill 1026**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Naishtat

Senate Bill 1026 amends the Family Code to establish the powers and duties of an attorney ad litem appointed by the court to represent the interests of a parent in a suit filed by a governmental entity in which termination of the parent-child relationship is requested or in a suit filed by a governmental entity requesting temporary managing conservatorship of a child. The bill also establishes the powers and duties of an attorney ad litem appointed to represent the interests of an alleged father in such a suit and authorizes the court to appoint the attorney ad litem to continue to represent the alleged father's interests as a parent if the alleged father is adjudicated to be a parent of the child and is determined by the court to be indigent.

**Senate Bill 1490**  
**Effective:** 9-1-11

**Senate Author:** Uresti et al.  
**House Sponsor:** Hunter et al.

Senate Bill 1490 amends the Family Code to require a record of certain proceedings relating to a child custody determination made in a foreign country 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 to be made by a court reporter or by other means approved by an associate judge. The bill authorizes a court, with respect to a petition seeking to enforce such a determination or order, to place a child with a parent or family member pending further order of the court only if the parent or family member has significant ties to the jurisdiction of the court; otherwise, the court must provide for the delivery of the child to the Department of Family and Protective Services in the manner provided for the delivery of a missing child. The bill revises the required contents of a warrant to take physical custody of a child.

Senate Bill 1490 amends the Penal Code to make it a third degree felony to knowingly make or cause to be made a false statement relating to a child custody determination made in a foreign country during certain hearings held in suits affecting the parent-child relationship.

## **Divorce, Child Support, and Spousal Maintenance**

**House Bill 901**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Harris

House Bill 901 amends provisions of the Family Code relating to spousal maintenance. The bill revises the conditions that establish eligibility for spousal maintenance and makes changes to the factors required to be considered by a court in determining the nature, amount, duration,



and manner of periodic payments for a spouse who is eligible to receive maintenance. The bill extends the maximum period for which a maintenance order may remain in effect and makes the duration of such an order contingent on the duration of the marriage. The bill increases from \$2,500 to \$5,000 the dollar amount used to determine the minimum monthly maintenance an obligor may be ordered to pay and specifies the types of income that constitute a spouse's gross income. The bill revises provisions relating to the termination, modification, or enforcement of a spousal maintenance obligation and prohibits a court from enforcing by contempt any provision of an agreed maintenance order for any period of maintenance beyond the period of maintenance the court could have ordered under law. The bill requires an obligee to return to an obligor any overpayment in maintenance made by the obligor if certain conditions apply and authorizes an obligor to file a suit to recover overpaid maintenance.

**House Bill 908****Effective:** 9-1-11**House Author:** Thompson**Senate Sponsor:** Harris

House Bill 908 amends the Family Code to require the court in a suit for dissolution of a marriage, if the trier of fact determines that a spouse has committed actual or constructive fraud on the community, to calculate the value by which the community estate was depleted as a result of the fraud, calculate the amount of the reconstituted estate, and divide the value of the reconstituted estate between the parties in a manner the court deems just and right. The bill authorizes a court to grant any legal or equitable relief necessary to accomplish a just and right division of a reconstituted estate.

**House Bill 1674****Effective:** 9-1-11**House Author:** Jackson**Senate Sponsor:** Harris

House Bill 1674 amends the Family Code, Insurance Code, Government Code, Tax Code, and Code of Criminal Procedure to revise procedures for establishing, modifying, and enforcing child support obligations. Among other provisions, the bill:

- extends the deadline by which an employer is required to send a statement pertaining to health insurance coverage status for an employee's child to the sender of an order or notice directing that the employer provide health insurance coverage to the child;
- clarifies that a cause of action in a suit for support of a minor or adult disabled child may be assigned only to the attorney general as the Title IV-D agency;
- authorizes the attorney general to file a child support review order that has the effect of modifying an existing order for child support to provide medical support for a child;
- authorizes the movant in a motion for enforcement in a suit affecting the parent-child relationship to attach to the motion a current copy of a payment record, authorizes the movant to subsequently update that payment record, and establishes the admissibility of the payment record;
- prohibits a court rendering a money judgment for child support arrearages from reducing or modifying the amount of arrearages, but authorizes the court to allow a counterclaim or offset;
- revises provisions specifying the types of real and personal property not exempt under the Texas Constitution or other law from attaching to a child support lien;
- authorizes the attorney general, not earlier than the 90th day after the date of death of an obligor in a Title IV-D case, to deliver a notice of levy to a financial institution in which the obligor was the sole owner of an account unless probate proceedings relating to the obligor's estate have commenced;

- establishes notification requirements for a financial institution that receives a notice of levy from the attorney general and authorizes a person who contests the levy to bring suit;
- decreases from 250 or more to 50 or more the number of employees that serves as the threshold above which an employer is required to remit payment of withheld earnings for child support by electronic funds transfer or electronic data interchange;
- authorizes the attorney general to establish and administer a child support arrearages payment incentive program;
- authorizes a child support agency to request a licensing authority to refuse to accept an application for issuance of an original license to an obligor who has failed to pay child support for six months or more and requires an authority that receives such a request to refuse to accept the application until being notified that certain conditions have been met;
- establishes that certain benefits or rights assigned by an insured, owner, or annuitant after a child support lien notice has been filed against the insured, owner, or annuitant by the attorney general continue to be subject to the child support lien after the date of assignment;
- entitles the attorney general's office to obtain from a state or federal law enforcement agency criminal history record information that relates 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 attorney general to file a petition setting forth a claim to excess proceeds in a court that ordered the seizure of a person's real property to recover delinquent property taxes under a tax warrant or the sale of a person's real property ordered sold pursuant to foreclosure of a tax lien; and
- requires the proceeds of a sale of forfeited contraband by public auction to be distributed to the attorney general in an amount not to exceed the amount of child support arrearages identified in a child support lien if the attorney general has filed a child support lien in the forfeiture proceeding and after any required distributions to an interest holder.

**House Bill 2422**  
**Effective:** 6-17-11

**House Author:** Thompson  
**Senate Sponsor:** Harris

House Bill 2422 amends the Family Code to require the court clerk in a suit for dissolution of a marriage to mail a notice of the signing of the final decree of dissolution of a marriage, rather than a copy of the final decree, to the party who waived service of process. The notice is required to state that a copy of the decree is available at the court clerk's office and to include the physical address of that office.

**Senate Bill 626**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Thompson

Senate Bill 626 amends provisions of the Government Code relating to assignment and payment of lottery winnings and the deduction of delinquent child support payments to clarify the requirement that the executive director of the Texas Lottery Commission deduct delinquent child support payments from lottery winnings paid in a lump sum or in periodic payments and to set out related procedures. The bill prohibits a person from assigning the right to receive lottery prize payments that are paid by the lottery commission if the person is subject to and delinquent in making payment under a child support order and makes conforming changes. The bill revises the delinquencies the executive director is required to deduct from lottery prize winnings to include delinquent amounts reported to the comptroller of public accounts, rather than amounts that are reported to the executive director as owed to certain specified agencies.

**Senate Bill 716**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Jackson

Previous law required the attorney general's office to biennially submit a report containing certain data relating to child support to the legislative committees having jurisdiction over family law issues for use in the committees' periodic review of child support guidelines. Senate Bill 716 amends the Family Code to instead require the attorney general's office, at least once every four years, to review the state's child support guidelines as required by federal law and report the results of the review and any recommendations for any changes to the guidelines and their manner of application to the committees.

**Senate Bill 1751**  
**Effective:** 9-1-12

**Senate Author:** Uresti  
**House Sponsor:** Thompson

Senate Bill 1751 amends the Family Code to require a court calculating net resources for the purpose of determining child support liability to deduct nondiscretionary retirement plan contributions if the obligor does not pay social security taxes. For the bill's purposes, a nondiscretionary retirement plan is a plan to which an employee is required to contribute as a condition of employment.

## **Domestic Violence, Child Abuse and Neglect, and Child Protection Services**

**House Bill 549**  
**Effective:** 6-17-11

**House Author:** Dutton  
**Senate Sponsor:** Uresti

House Bill 549 amends the Health and Safety Code to prohibit a person who would otherwise have the right to control the disposition of a decedent's remains from controlling the disposition of the remains if, in connection with the decedent's death, an indictment has been filed charging the person with a criminal homicide offense that involves family violence against the decedent. The bill repeals a provision establishing the presumption, in the absence of evidence of a contrary intent, that a married woman directs that her name, as it appears on her grave marker, include the same last name she used at the time of her death.

House Bill 549 amends the Texas Probate Code to make a conforming change.

**House Bill 753**  
**Effective:** 6-17-11

**House Author:** Raymond  
**Senate Sponsor:** Zaffirini

House Bill 753 amends the Human Resources Code to require the Department of Family and Protective Services (DFPS) to use special assessment tools in screening applicants for employment with the child protective services division in order to match an applicant with the position best suited for the applicant and to give favorable consideration to an applicant for an entry-level caseworker position who has a master's or bachelor's degree in social work over other applicants who have comparable skills. The bill requires DFPS to study the salaries of each type of child protective services caseworker to determine the role salary plays in recruitment and retention of caseworkers and in caseworker turnover rate and to consider contracting with an institution of higher education to perform the study. The bill requires DFPS, not later than December 1, 2012, to report the study's results and any recommendations to the governor, lieutenant governor, speaker of the house of representatives, and standing committee of each house of the legislature with jurisdiction over DFPS.

**House Bill 848**  
**Effective:** 9-1-11

**House Author:** Guillen et al.  
**Senate Sponsor:** Zaffirini

House Bill 848 amends the Family Code to authorize 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 the Department of Family and Protective Services (DFPS) so that the relative or other person may make decisions regarding the child during an investigation of abuse or neglect or while DFPS is providing services to the parent. The bill specifies that an authorization agreement does not confer on 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.

**House Bill 905**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Harris

House Bill 905 amends the Family Code to provide that a statement made by a child 12 years of age or younger that describes alleged family violence against the child is admissible as evidence in a hearing on an application for a protective order in the same manner that a child's hearsay statement regarding alleged abuse against the child is admissible in a suit affecting the parent-child relationship.

**House Bill 3234**  
**Effective:** 9-1-11

**House Author:** Hernandez Luna et al.  
**Senate Sponsor:** Davis

House Bill 3234 amends the Family Code to require the Department of Family and Protective Services by rule to establish guidelines that prioritize requests to release case records collected, developed, or used in a child abuse or neglect investigation or in providing services as a result of such an investigation, including those requests made by an adult previously in the department's managing conservatorship.

**Senate Bill 116**  
**Effective:** 6-17-11

**Senate Author:** Uresti et al.  
**House Sponsor:** Castro

Senate Bill 116 amends the Family Code to enact the Kristy Appleby Act, which expands the definition of "dating violence" to include an act by an actor that is committed because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage and authorizes such a victim to file an application for a protective order.

**Senate Bill 218**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Dukes

Senate Bill 218 amends the Family Code to prohibit the Department of Family and Protective Services (DFPS) from entering into a case closure agreement with a child's parent or other applicable adult after closing a case, except under certain circumstances, and requires DFPS to develop policies to guide caseworkers in the development of certain authorized case closure agreements. The bill establishes requirements relating to the emergency removal by DFPS of a child younger than 11 years of age on discovering that the child has a sexually transmitted disease and procedures for filing an application for a protective order DFPS determines provides a reasonable alternative to removing an alleged perpetrator of abuse from the residence of a child. The bill sets out provisions relating to the joint development and signing of an original service plan, the joint development of an amendment to an original plan, the review and modification of an amended plan, the period for which an amended plan remains effective, and the incorporation

of an original or amended plan into the orders of the court. Rather than conduct an annual random survey of a sample of children from each region in Texas who are a certain age and who receive substitute care services, the bill requires DFPS to collect and report service and outcome information for current and former foster care youth for use in the National Youth in Transition Database as required by federal law.

Senate Bill 218 amends the Government Code to entitle DFPS to obtain criminal history record information that relates to certain persons connected to an entity that provides supervised independent living services to a young adult receiving foster care service from DFPS; the Human Resources Code to require DFPS to require 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; and the Transportation Code to exempt certain persons in the managing conservatorship of DFPS or residing in a foster care placement from paying any fee for the issuance of a driver's license. The bill requires DFPS to implement a redesign of the foster care system in accordance with the recommendations contained in the department's December 2010 Foster Care Redesign report submitted to the legislature and sets out requirements relating to the implementation of the redesign and payment rates for foster care under the redesigned system.

**Senate Bill 279**  
**Effective:** 9-1-11

**Senate Author:** Davis  
**House Sponsor:** Laubenberg et al.

Senate Bill 279 amends the Family Code to authorize 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 and also to prohibit a person found to have committed family violence from harming, threatening, or interfering with the care, custody, or control of such a pet or animal that is possessed by a person protected by the order or by a member of the family or household of a person protected by the order.

Senate Bill 279 amends the Penal Code to make it an offense for a person, in violation of a protective order, to knowingly or intentionally harm, threaten, or interfere with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order.

**Senate Bill 434**  
**Effective:** 6-17-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Raymond

Senate Bill 434 amends the Government Code to establish a task force to address the relationship between domestic violence and child abuse and neglect, develop policy recommendations 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. The bill provides for the composition and duties of the task force and sets out requirements for developing policy recommendations and best practices guidelines. The bill requires the task force to prepare a report to be submitted not later than September 1, 2012, to the governor, lieutenant governor, speaker of the house of representatives, and appropriate committees of the senate and house of representatives and requires the Department of Family and Protective Services to seek the assistance of the task force when proposing or amending a rule as a result of the work done by the task force.

**Senate Bill 789**  
**Effective:** 9-1-11

**Senate Author:** Harris et al.  
**House Sponsor:** Thompson

Senate Bill 789 amends the Family Code to authorize a court to render a protective order sufficient to protect the applicant and members of the applicant's family or household that is effective for a period that exceeds two years in certain cases involving serious bodily injury or



repeat acts of family violence and to authorize a person who is the subject of such a protective order to file by a specified date a subsequent motion requesting that the court review the protective order and determine whether there is a continuing need for the order. The bill clarifies that a protective order remains in effect until the order's expiration date if a court reviewing the order does not make a finding that there is no continuing need for the order and clarifies that evidence of the movant's compliance with the order does not by itself support a finding that there is no continuing need for the order.

**Senate Bill 819**  
**Effective:** 9-1-11

**Senate Author:** Harris et al.  
**House Sponsor:** Thompson

Senate Bill 819 amends the Family Code to authorize a Texas court with jurisdiction over protective order and family violence proceedings to enforce a protective order rendered by another court in the same manner that the other court could enforce the order, regardless of whether the order is transferred, including enforcement through contempt, and establishes venue for a motion for enforcement of a protective order. The bill extends authority to file an application for a protective order with regard to dating violence to any member of the dating relationship, regardless of whether the member is an adult or a child. The bill provides for the validity of a child's signed statement alleging family violence with regard to a temporary ex parte order for protection against family violence and limits the temporary ex parte orders for which a court may recess a hearing to contact the respondent by telephone and provide the respondent the opportunity to be present when the court resumes the hearing. The bill requires each temporary ex parte protective order issued to contain a specified statement regarding the punishment for a violation of the order.

**Senate Bill 993**  
**Effective:** 9-1-11

**Senate Author:** Uresti  
**House Sponsor:** Rodriguez

Senate Bill 993 amends provisions of the Family Code relating to the removal of a child by the Department of Family and Protective Services (DFPS) and for the placement of a child during an investigation of abuse or neglect. The bill provides for parental child safety placement and requires an agreement to contain certain conditions relating to the respective duties of a person making a placement, a caregiver, and DFPS, access to the child, and termination of the agreement. The bill requires DFPS to develop policies and procedures for evaluating a potential caregiver's qualifications to care for a child under an agreement and establishes notification requirements regarding a determination that it is not in the child's best interest to be placed with the caregiver. The bill sets out provisions relating to the closing of a case for which DFPS has approved a parental child safety placement, removal by DFPS of a child from a person who makes a parental child safety placement or a caregiver, and notification of relatives and other individuals that an agency has taken possession of a child to protect the child's health and safety. The bill authorizes the court to modify an original or amended service plan at any time and revises procedures relating to the review, implementation, and enforcement of a service plan filed by DFPS. The bill requires the court to advise the parties to a status hearing of requirements relating to the mandatory appointment of an attorney ad litem and subsequent review of the service plan and to appoint an attorney ad litem if required.

**Senate Bill 1154**  
**Effective:** 6-17-11

**Senate Author:** Uresti  
**House Sponsor:** McClendon

Senate Bill 1154 amends the Family Code to establish a task force to develop a strategy to reduce child abuse and neglect and improve child welfare. The bill provides for the appointment and qualifications of members and sets out provisions relating to the administration of the task



force. The bill requires the task force to identify all existing programs in Texas relating to reducing child abuse and neglect or improving child welfare and, of the programs identified, those that receive state money. The bill requires the task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in Texas and sets out the duties required of the task force in establishing that strategy. The bill establishes the duties of certain state agencies required to support the task force and requires the task force to consult with employees of those agencies and authorizes the task force to consult with certain private foundations to accomplish the task force's responsibilities. The bill requires the task force to review the funding strategies for the task force and develop proposals for expanding the sources of funds, authorizes the task force to accept gifts and grants, and establishes the child abuse reduction task force account as an account in the general revenue fund.

**The summaries for the following bills are in the listed chapters:**

House Bill 79 (1st C.S.) - Courts

House Bill 253 - Criminal Justice

House Bill 1404 - Military Forces and Veterans

House Bill 2624 - Military Forces and Veterans

Senate Bill 736 - Public Education

Senate Bill 1159 - Military Forces and Veterans



## Government Purchasing

This chapter covers legislation on issues relating to the procurement of goods and services by state and local governmental entities, including legislation on contracting, leasing, and public works projects. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 628**  
**Effective:** 9-1-11

**House Author:** Callegari  
**Senate Sponsor:** Jackson

House Bill 628 amends the Government Code, Education Code, Local Government Code, Transportation Code, Special District Local Laws Code, and Water Code to add or amend provisions relating to government contracting, public works performance bonds, and payment bonds.

House Bill 628 prohibits the use of a reverse auction procedure to obtain services related to a public work contract for which a performance or payment bond is required.

House Bill 628 establishes that a prohibition on the use of school district resources for the design, construction, or renovation of improvements to real property does not prohibit a school district board of trustees from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district.

House Bill 628 includes the method set out in the bill's provisions for construction services among the methods that provide the best value for the district and removes from those methods a design/build contract; a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager; and a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. The bill requires a district to consider a vendor's presence in Texas when contracting for certain goods and services.

House Bill 628 authorizes a school district to use competitive bidding to select a vendor, establishes certain exemptions for school districts from statutory provisions governing competitive bidding on public work contracts by local governments, and establishes requirements relating to best value, sealed proposals, contract negotiations, and change orders.

House Bill 628 requires a school district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance to provide the commissioner of education with written notice of the action and authorizes the commissioner to join in the action on behalf of the state to protect the state's share in the action. The bill provides for the distribution of proceeds from such an action.

House Bill 628 prohibits the comptroller of public accounts from listing a multiple award contract on a multiple award contract schedule if the goods or services provided by that contract are engineering or architectural services.

House Bill 628 establishes contracting and delivery procedures for construction projects applicable to a public work contract made by a governmental entity authorized by state law to make a public work contract, with certain exemptions. The bill sets out notice requirements with regard to the procedures and authorizes the governing body of a governmental entity to delegate its authority regarding an action authorized or required by the procedures under certain circumstances. The bill prohibits a governmental entity, in engaging in an activity to which these provisions apply, from considering whether a person is a member of or has another relationship with any organization and further requires the entity to ensure that its bid specifications and any subsequent agreement do not deny or diminish a person's right to work because of the person's relationship status with respect to an organization. The bill authorizes a governmental entity

to consider several factors in determining the award of a contract and requires a governmental entity to consider certain criteria in doing the same.

House Bill 628 requires the governing body of a governmental entity that considers a construction contract using an authorized method other than competitive bidding to determine, before advertising, which method provides the best value and to base its selection among offerors on applicable criteria listed for the particular method used. The bill sets out requirements for such a method and provides for the selection or designation of an architect or engineer and certain other providers of professional services in accordance with existing law.

House Bill 628 repeals statutory provisions relating to school district purchasing contracts, building construction and acquisition, alternative project delivery methods for certain projects, design-build procedures for certain civil works projects, and the creation of a local government corporation and sets out similar provisions authorizing procurement and delivery procedures with regard to certain public work contracts made by a governmental entity. These procedures include the competitive bidding method, the competitive sealed proposal method, the construction manager-agent method, the construction manager-at-risk method, the building using design-build method, design-build procedures for certain civil works projects, and the job order contracts method.

House Bill 628 makes a contract, including a job order, entered into in violation of the bill's contracting provisions voidable as against public policy. The bill provides for the enforcement of the bill's contracting provisions, other than the enforcement of a contract entered into by a state agency, through an action for declaratory or injunctive relief filed not later than the 10th day after the date on which the contract is awarded.

House Bill 628 authorizes the governing body of certain municipalities to grant general authority to an administrative official of the municipality to approve certain change orders for a public work contract and authorizes the governing body of an issuer of a certificate of obligation to use a method of project delivery authorized by the bill as an alternative to submitting the proposed contract to competitive procurement if certain conditions are met.

House Bill 628 changes and expands a general prohibition on increasing an original contract price in a change order and removes a prohibition against decreasing the price by more than 25 percent without the consent of the contractor. The bill authorizes a municipality that has received a competitive sealed bid for the purchase of certain property from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price from a bidder who is not a resident of the municipality to enter into a contract for purchases other than construction services in an amount of less than \$500,000.

House Bill 628 authorizes the Texas Department of Transportation to contract with an owner of land adjacent to a highway to construct an improvement on the right-of-way without complying with competitive bidding procedures if the improvement is directly related to improving access to or from the owner's land. The bill establishes certain restrictions on the contract.

House Bill 628 exempts energy saving performance contracts and construction contracts, as applicable, for each of the following types of facilities and projects from its provisions relating to contracting and delivery methods: public school and higher education facilities, state and local government facilities, sports and community venue district facilities, hybrid delivery systems for certain construction projects by metropolitan mass transit authorities, professional and other services provided to a regional transportation authority consisting of one subregion governed by a subregional board, and purchase contracts and competitive bidding procurement by navigation districts and port authorities.

**House Bill 679**  
**Effective:** 6-17-11

**House Author:** Button  
**Senate Sponsor:** Carona

House Bill 679 amends the Local Government Code and Water Code to authorize the governing body of certain local governmental entities to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that involves an increase or decrease of \$50,000 or less.

**House Bill 1247**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Birdwell

House Bill 1247 repeals a provision in the Government Code that prohibits a state agency from purchasing paper supplies that exceed 8-1/2 inches by 11 inches in size and filing cabinets designed to store completed documents that exceed those dimensions.

**House Bill 1694**  
**Effective:** 9-1-11

**House Author:** Coleman  
**Senate Sponsor:** West

House Bill 1694 amends provisions of the Local Government Code relating to the purchasing and contracting authority of certain governmental entities. The bill, among other provisions:

- adds payment by an electronic transfer or check as a form of payment for a purchase made by a county purchasing agent, reimbursement to a municipality’s purchasing agent for making a purchase for a county, and payment of a county purchasing agent’s salary;
- removes confinement in a county jail as a penalty for a misdemeanor offense of violating provisions relating to county purchasing agents;
- prohibits procedures for the use of a county purchasing card from avoiding competitive bidding requirements;
- revises provisions relating to a purchasing agent carrying out the functions of a county auditor and a county auditor carrying out the functions of a purchasing agent;
- authorizes certain counties to procure an item using the competitive procurement procedures and requires the commissioners court of a county without a purchasing agent to adopt competitive procurement procedures;
- revises provisions relating to the notice of a county purchase;
- authorizes a county to negotiate an agreement with a cooperative contract vendor for the vendor to purchase or accept as trade used county equipment;
- expands to all counties the applicability of certain provisions relating to a pre-bid conference;
- specifies that bids opened by the county required to be kept on file and available for inspection must be kept on file and available until the first anniversary of the date of opening and makes opened bids subject to state open records law;
- revises provisions relating to the award of a contract to a bidder who is not the lowest dollar bidder;
- repeals the definition of “comparable health insurance coverage” and in certain provisions replaces the term with the term “reasonable health insurance coverage”;
- expands to all counties the authority to select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverages for insurance;
- prohibits an authorized officer from making a purchase on behalf of a county until the officer provides to the county judge a signed acknowledgment that the officer has read and understands provisions relating to the purchasing and contracting authority of counties;



## Government Purchasing

- provides that an additional purpose of the Certificate of Obligation Act of 1971 is to provide a procedure for certain financing that is an alternative to the more cumbersome procedure under provisions governing the purchasing and contracting authority of counties;
- makes provisions relating to design-build procedures for certain civil works projects applicable to a board of trustees under Transportation Code provisions relating to harbor and port facilities in certain municipalities; and
- repeals certain provisions relating to the alternative multistep competitive proposal procedure in certain counties and to certain offenses relating to competitive bidding requirements and competitive procurement requirements.

**House Bill 1869**  
**Effective:** 6-17-11

**House Author:** Giddings  
**Senate Sponsor:** West

House Bill 1869 amends the Local Government Code to expand the applicability of provisions relating to the consideration of the location of a bidder's principal place of business when awarding a contract by removing the municipality and county population thresholds under which such provisions were applicable.

**House Bill 2325**  
**Effective:** 9-1-11

**House Author:** McClendon  
**Senate Sponsor:** Wentworth

House Bill 2325 amends the Transportation Code to increase from \$25,000 to \$50,000 the threshold amount below which contracts of certain regional transportation authorities and metropolitan rapid transit authorities are not required to be competitively bid.

**House Bill 2729**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Watson

House Bill 2729 amends the Local Government Code to authorize 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. The bill sets out requirements relating to the selection, retention, and qualifications of the private entity.

**House Bill 3730**  
**Effective:** 6-17-11

**House Author:** Martinez  
**Senate Sponsor:** Hinojosa

House Bill 3730 amends the Transportation Code to make the Texas Department of Transportation's authority to award a maintenance contract as a purchase of service apply if the contract involves an amount for which a formal solicitation process is not required under certain rules adopted by the comptroller rather than an amount less than \$15,000.

**Senate Bill 74**  
**Effective:** 6-17-11

**Senate Author:** Nelson  
**House Sponsor:** Branch

Senate Bill 74 amends the Government Code to authorize a university system or institution or agency of higher education included within the definition of "state agency" under the State Purchasing and General Services Act to donate data processing equipment that is surplus or salvage property to a public or private hospital located in a rural county.

**Senate Bill 327**  
**Effective:** 6-17-11

**Senate Author:** Van de Putte et al.  
**House Sponsor:** Garza

Senate Bill 327 amends the Government Code to include certain veterans service agencies as small businesses for purposes of state procurement contracting under provisions of law relating to the multiple award contract schedule.

**Senate Bill 1048**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Davis, John

Senate Bill 1048 amends the Government Code to establish procedures for the procurement of public and private facilities and infrastructure by a state agency, institution of higher education, or local government. The procedures, which are not exclusive and do not apply to certain projects, include a process for selecting a project proposal and negotiating an interim or comprehensive agreement with a private entity or other persons to develop or operate the project. Before negotiating an agreement, a responsible governmental entity must submit copies of detailed proposals to the newly established Partnership Advisory Commission, which can accept or decline a proposal for review. If the commission accepts a proposal for review and submits its recommendations, the responsible governmental entity must submit a report to the commission describing the extent to which the commission's recommendations were addressed in the proposed interim or comprehensive agreement.

Senate Bill 1048 requires a responsible governmental entity to adopt project guidelines as prescribed by the bill and specifies the powers and duties of a person who enters into a project agreement with the governmental entity. The bill requires a person submitting a project proposal to notify each affected jurisdiction of the proposal, authorizes the delivery of services to be part of a contract, and authorizes a governmental entity to dedicate and convey public property for public use in a qualifying project. The bill also addresses public input, performance and payment bonds, remedies for the material default of a contracting person, and the exercise of eminent domain power by a responsible governmental entity. Provisions governing procurement guidelines address how the bill's provisions are affected by other state laws relating to procurement.

**Senate Bill 1393**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Keffer

Senate Bill 1393 amends the Local Government Code to specify, for purposes of the Public Property Finance Act, that the term "personal property" includes electricity.

**Senate Joint Resolution 26**  
**For Election:** 11-8-11

**Senate Author:** West  
**House Sponsor:** Turner

Senate Joint Resolution 26 proposes an amendment to the state constitution to authorize the legislature by general law to authorize cities or counties to enter into interlocal contracts with other cities or counties without meeting certain tax and sinking fund requirements.

**The summaries for the following bills are in the listed chapters:**

House Bill 1967 - Special Districts  
House Bill 2499 - State Government  
House Bill 3395 - State Government  
Senate Bill 400 - Human Services



## Health and Medical Occupations

This chapter covers legislation on issues relating to health care and medical occupations, regulation, licensing, registration, and continuing education requirements. The chapter also includes legislation on the dispensing of certain controlled substances and over-the-counter and prescription drugs. Legislation relating to the practice of veterinary medicine is in the **Occupational Regulation** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 1476**  
**Effective:** 9-1-11

**House Author:** Riddle  
**Senate Sponsor:** Nichols

House Bill 1476 amends the Health and Safety Code to clarify the requirement that an emergency medical services personnel certification be revoked if the certificate holder has been convicted of or placed on deferred adjudication community supervision or deferred disposition for certain offenses.

**House Bill 3145**  
**Effective:** 6-17-11

**House Author:** Naishtat et al.  
**Senate Sponsor:** Zaffirini

House Bill 3145 amends the Occupations Code to exempt from provisions regulating chemical dependency counselors the activity or service of a person who provides chemical dependency counseling through a program or in a facility that receives funding from the Texas Department of Criminal Justice and who is a certified criminal justice addictions professional or who has certified criminal justice professional applicant status. The bill requires the executive commissioner of the Health and Human Services Commission to add a maximum \$10 surcharge to the license or license renewal fee for a chemical dependency counselor license to fund approved peer assistance programs for chemical dependency counselors. The bill removes the requirement to pass an oral examination for a person to be eligible for a chemical dependency counselor license and reduces from five years to three years the period preceding application during which the Department of State Health Services is prohibited from issuing a license, registration, or certification related to chemical dependency counseling based on the applicant being convicted or placed on community supervision for certain offenses. The bill amends the Health and Safety Code to make a conforming change.

**House Bill 3146**  
**Effective:** 9-1-11

**House Author:** Naishtat  
**Senate Sponsor:** Zaffirini

House Bill 3146 amends the Health and Safety Code to revise the conditions under which consent for therapy or treatment for chemical dependency in a treatment facility is considered valid by authorizing a psychologist, social worker, professional counselor, or chemical dependency counselor, in addition to the treating physician, to provide the required explanation regarding the patient's condition and treatment. The bill clarifies that such explanation, with respect to valid consent for the administration of medication, must be provided by the treating physician. The bill requires the executive commissioner of the Health and Human Services Commission to adopt rules governing the screening process used by a treatment facility to determine whether a prospective patient presents sufficient signs, symptoms, or behaviors indicating a potential chemical dependency disorder to warrant a more in-depth assessment by

## Health and Medical Occupations

a qualified professional and requires a treatment facility to provide certain training for persons who will be conducting a screening at the facility.

### **Senate Bill 256**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** King, Susan

Senate Bill 256 amends the Health and Safety Code to require a private autopsy facility to post in a conspicuous place in a public area of the facility a notice that states in English and in Spanish that a person may file with the Texas Medical Board a complaint against a physician who performs autopsy services. The bill requires the board by rule to adopt a sample form of the notice and to publish the form on the board's Internet website and requires a notice posted by a private autopsy facility to substantially comply with the sample form. The bill makes it a Class C misdemeanor for a private autopsy facility to fail to publish the notice. Provisions relating to the notice and posting requirement take effect September 1, 2011, and provisions relating to the misdemeanor take effect January 1, 2012.

### **Senate Bill 613**

**Effective:** 9-1-11

**Senate Author:** Rodriguez

**House Sponsor:** Alvarado

Senate Bill 613 amends the Occupations Code to require an applicant 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 State Board of Examiners for Speech-Language Pathology and Audiology and recognized by the United States secretary of education under federal law in an accredited or approved college or university and specifies that the master's degree required of an applicant for licensing as a speech-language pathologist must be from a program accredited by such an approved and recognized organization in an accredited or approved college or university.

### **Senate Bill 662**

**Effective:** 9-1-11

**Senate Author:** Nichols et al.

**House Sponsor:** Anchia

Senate Bill 662 amends provisions of the Occupations Code relating to the continuation and functions of the State Board of Examiners for Speech-Language Pathology and Audiology. The bill continues the board until September 1, 2017, amends and adds various standard across-the-board sunset provisions, and establishes criminal history record information requirements for the issuance or renewal of a license to practice speech-language pathology or audiology. The bill requires the board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, with the assistance of the Department of State Health Services, to jointly adopt rules to establish requirements for each sale of a hearing instrument and authorizes the board to order an audiologist to pay a refund to a consumer who returns a hearing instrument during a specified trial period. The bill provides for the recusal of a board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint, with respect to voting on the matter at a board meeting, authorizes the board to issue a cease and desist order prohibiting an unlicensed person in violation of state law or a rule relating to the practice of speech-language pathology or audiology from engaging in the apparent unlawful activity, and makes a violation of such an order grounds for imposing an administrative penalty.

### **Senate Bill 663**

**Effective:** 9-1-11

**Senate Author:** Nichols et al.

**House Sponsor:** Anchia

Senate Bill 663 amends provisions of the Occupations Code relating to the continuation and functions of the State Committee of Examiners in the Fitting and Dispensing of Hearing

Instruments. The bill continues the committee until September 1, 2017, amends and adds various standard across-the-board sunset provisions, and requires the committee and the State Board of Examiners for Speech-Language Pathology and Audiology, with the assistance of the Department of State Health Services (DSHS), to jointly adopt rules to establish requirements for each sale of a hearing instrument. The bill revises the roles of the committee and DSHS in developing, maintaining, and administering the examination for a license to engage in fitting and dispensing hearing instruments, requires the practical examination to be administered by one or more qualified proctors selected and assigned by DSHS, and establishes qualifications for the proctors. The bill establishes criminal history record information requirements for the issuance or renewal of a license and revises various provisions relating to license holder continuing education requirements, alternatives to those requirements, and continuing education exemptions. The bill provides for the informal disposition of a contested case, informal proceedings, and the use of an informal settlement conference to resolve a complaint against a license holder. The bill provides for the recusal of a committee member who participated in the investigation of a complaint, or in informal settlement negotiations regarding the complaint, from voting on the matter at a committee meeting, and authorizes the committee to order a license holder to pay a refund to a consumer who returns a hearing instrument during a specified trial period. The bill authorizes the committee to issue a cease and desist order prohibiting an unlicensed person in violation of state law or a rule relating to the practice of fitting and dispensing hearing instruments from engaging in the apparent unlawful activity and makes a violation of such an order grounds for imposing an administrative penalty.

**Senate Bill 1661****Effective:** See below**Senate Author:** Duncan**House Sponsor:** Hunter

Senate Bill 1661 amends the Occupations Code to prohibit certain nonprofit health organizations certified by the Texas Medical Board organized for purposes relating to conducting research, the study and practice of medicine, and the delivery of health care from interfering with, controlling, or otherwise directing a physician's professional judgment in violation of law, including board rules. The bill requires such a 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 and set out requirements for those policies. The bill prohibits a health organization from disciplining a physician for reasonably advocating for patient care. The bill prohibits the requirements of the bill from being voided or waived by contract, but authorizes a member of a health organization to establish ethical and religious directives and authorizes a physician to contractually agree to comply with those directives. The bill authorizes, rather than requires, the board to revoke the board's certification of a health organization on determination that the organization is established, organized, or operated in violation of or with the intent to violate the Medical Practice Act and includes the imposition of an administrative penalty against the organization among the actions the board is authorized to take to enforce such a determination. Provisions of the bill relating to independent medical judgment of a physician employed by an applicable health organization take effect January 1, 2012. All other provisions of the bill take effect September 1, 2011.

**Senate Bill 1857****Effective:** 6-17-11**Senate Author:** Zaffirini**House Sponsor:** Truitt

Senate Bill 1857 amends the Human Resources Code to authorize a person who is not licensed as a health care provider to provide administration of medication, under specified conditions, to certain clients with intellectual and developmental disabilities without the requirement that a registered nurse delegate or oversee each administration. The bill makes the administration



of certain medications subject to rules of the Texas Board of Nursing; establishes the duties of the Department of Aging and Disability Services (DADS) regarding the administration of medication by an unlicensed person; and establishes the circumstances under which a registered nurse or licensed vocational nurse may be held accountable or civilly liable in regard to the administration of medication by an unlicensed person. The bill requires DADS to convene an advisory committee of affected stakeholders in the development of any policies, processes, or training curriculum required by the bill. The bill requires the Texas Board of Nursing and DADS to conduct a pilot program to evaluate licensed vocational nurses providing on-call services by telephone to clients.

## **Pharmacists and Pharmacies**

### **House Bill 1137**

**Effective:** 9-1-11

**House Author:** Darby et al.

**Senate Sponsor:** Estes

House Bill 1137 amends the Health and Safety Code to change the identification requirements for a person purchasing an over-the-counter product containing ephedrine, pseudoephedrine, or norpseudoephedrine and changes the amount of those substances that may be purchased within specified periods. Before completing an over-the-counter sale of a product containing those substances, a business establishment must transmit the required information in the record of sale to a real-time electronic logging system that meets specified criteria. The bill sets out requirements relating to the use of such a system, including recordkeeping requirements in the event of system failure and requirements regarding real-time access to information in the system. The bill provides for a temporary exemption from the requirement to use such a system. Specified privacy protections apply to the information in a system and a business establishment may disclose the information only to certain law enforcement entities. The bill limits a business establishment's use of such information, sets out provisions relating to civil liability for the release of the information, requires a business establishment to make each record available on request by the Department of State Health Services (DSHS) or any local, state, or federal law enforcement agency, and provides for the maintenance and destruction of records in certain circumstances. The Texas State Board of Pharmacy and DSHS are required to provide to system administrators the contact information of all business establishments engaging in over-the-counter sales of products containing ephedrine, pseudoephedrine, and norpseudoephedrine.

### **House Bill 2069**

**Effective:** 9-1-11

**House Author:** Naishtat

**Senate Sponsor:** Lucio

House Bill 2069 amends the Occupations Code to authorize a pharmacist to dispense up to a 90-day supply of a dangerous drug for a valid prescription that specifies the dispensing of a lesser amount followed by periodic refills if the total quantity of the drug dispensed does not exceed the total quantity authorized in the original prescription; the patient consents to the dispensing of up to a 90-day supply and the physician has been notified; the prescription does not specify that dispensing the drug in an initial amount followed by periodic refills is medically necessary; the drug is not a psychotropic drug; and the patient is at least 18 years of age.

### **Senate Bill 594**

**Effective:** 9-1-11

**Senate Author:** Van de Putte et al.

**House Sponsor:** Zerwas

Senate Bill 594 amends the Health and Safety Code, Government Code, and Occupations Code to provide the option for a practitioner to record an electronic prescription of a Schedule II controlled substance that includes the information otherwise required to be contained in an

official written prescription form and sets out certain requirements relating to an electronic prescription for a prescribing physician and a dispensing pharmacist. The bill requires the quantity of a controlled substance prescribed electronically to be shown numerically and requires an electronic prescription to contain the prescribing practitioner's electronic signature or other secure method of validation. The bill changes the deadline by which each dispensing pharmacist is required to send to the director of the Department of Public Safety (DPS) information relating to a prescription, establishes a deadline for providing DPS a Federal Drug Enforcement Administration number, and removes the requirement that a practitioner's department registration number be shown in a prescription or included in the official prescription form for a controlled substance. The bill authorizes the director to permit an investigator for the Texas Board of Nursing to have access to certain official prescription information.

**Senate Bill 1273****Effective:** 9-1-11**Senate Author:** Williams**House Sponsor:** Hamilton et al.

Senate Bill 1273 amends the Texas Controlled Substances Act in the Health and Safety Code to require a person required to register to manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance in Texas to provide the Department of Public Safety (DPS) with the person's Federal Drug Enforcement Administration number by a specified date. The bill revises the information required to be included by a person who is not a prescribing practitioner or pharmacist in the written record of a Schedule II controlled substance prescription, required to be shown on a prescription for a controlled substance, and required to be included in each official prescription form used to prescribe a Schedule II controlled substance. The bill shortens the deadline by which each dispensing pharmacist is required to send all information required by the public safety director of DPS to the director, clarifies that such submitted information is confidential, and adds an investigator for the Texas Board of Nursing to the persons authorized to access such information and other confidential information sent to the director under the official prescription program.

**Senate Bill 1438****Effective:** 6-17-11**Senate Author:** Van de Putte**House Sponsor:** Hopson

Senate Bill 1438 amends provisions of the Occupations Code relating to the program for impaired pharmacists and disciplinary proceedings conducted by the Texas State Board of Pharmacy. Among other provisions, the bill specifies records considered confidential for purposes of the program, clarifies circumstances under which the board is authorized to disclose those records, and provides for the confidentiality of such information with regard to a civil trial or certain board action. The bill clarifies mental or physical examination procedures for a pharmacist, pharmacist-intern, or pharmacy technician, including such a person's burden of proof to show why that person should not be required to submit to the examination and the deadline by which a person is required to submit to an examination on order of the disciplinary panel. The bill includes provisions relating to the confidentiality of information during a board investigation and the temporary suspension or restriction of a license or registration under the Texas Pharmacy Act.

## Physicians and Nurses

### **House Bill 680**

**Effective:** 9-1-11

**House Author:** Schwertner et al.

**Senate Sponsor:** Huffman

House Bill 680 amends provisions of the Occupations Code relating to complaints filed with the Texas Medical Board. The bill establishes a time limit for the board to consider or act on a complaint involving care provided to a person, authorizes the board to consider a previously investigated complaint to determine whether there is a pattern of practice violating the Medical Practice Act, and prohibits the board from accepting anonymous complaints. The bill requires a complaint filed by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a physician to include the name and address of the person or entity filing the complaint and requires the board to notify the physician who is the subject of the complaint of that information unless notice would jeopardize an investigation. The bill shortens the deadlines by which the board is required to complete a preliminary investigation of a complaint and notify a license holder of the time and place of an informal meeting relating to a complaint.

House Bill 680 authorizes the board to issue and establish the terms of a remedial plan to resolve the investigation of certain complaints under the Medical Practice Act, authorizes the board to assess a fee against a license holder participating in a remedial plan, and requires the board to adopt rules relating to the issuance of a remedial plan. The bill requires the board, on request by a physician under review by the board through an informal proceeding, to make a recording of the informal settlement conference proceeding and authorizes the board to charge the physician a fee to cover the cost of recording the proceeding. The bill revises the board's powers and duties with regard to an administrative law judge's findings of fact and conclusions of law in a hearing on the formal disposition of a contested case involving the board.

### **House Bill 1380**

**Effective:** 9-1-11

**House Author:** Truitt

**Senate Sponsor:** Rodriguez

House Bill 1380 amends provisions of the Occupations Code establishing eligibility requirements for a license to practice medicine in Texas. The bill requires a license applicant who is a graduate of a medical school that is located outside the United States and Canada to have successfully completed at least two, rather than three, years of graduate medical training in the United States or Canada that was approved by the Texas Medical Board.

### **House Bill 2098**

**Effective:** 6-17-11

**House Author:** Davis, John

**Senate Sponsor:** Uresti

House Bill 2098 amends the Business Organizations Code to authorize licensed physicians and licensed physician assistants to form a corporation, create a partnership, or form and own a professional association or a professional limited liability company to perform a professional service that falls within the scope and practice of those practitioners and, for a corporation, that meets other specified criteria. The bill establishes requirements and limitations relating to the authority of physicians and physician assistants who form such an entity and on the ownership interest in the entity by a physician assistant or combination of physician assistants. It prohibits its provisions relating to the formation of such an entity from being construed to allow the practice of medicine by someone not licensed as a physician under state law or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine. The bill provides for the continued exercise of regulatory authority by the Texas Medical Board and the Texas Physician Assistant Board over their respective license holders who form a corporation or partnership in accordance with the bill's provisions.

House Bill 2098 amends the Occupations Code to establish recordkeeping requirements for physicians and physician assistants who jointly own entities under those provisions and for the practitioners' respective boards.

**House Bill 2703****Effective:** 9-1-11**House Author:** Truitt**Senate Sponsor:** Uresti

House Bill 2703 amends provisions of the Occupations Code governing the regulation of orthotists and prosthetists to include an advanced practice nurse or physician assistant acting under the delegation and supervision of a licensed physician among the persons under whose order an orthosis or prosthesis may be measured, designed, fabricated, assembled, fitted, adjusted, or serviced.

**House Bill 2975****Effective:** 9-1-11**House Author:** Hunter et al.**Senate Sponsor:** Harris

House Bill 2975 amends the Occupations Code to encourage certain licensed physicians and licensed nurses whose practices include the treatment of tick-borne diseases to participate in continuing education relating to the treatment of tick-borne diseases. The bill sets out requirements for the Texas Medical Board and the Texas Board of Nursing in establishing the content for the continuing education and requires the respective board, if relevant, to consider the physician's or nurse's participation in an approved continuing education course if the physician or nurse is being investigated because of the physician's or nurse's selection of clinical care for the treatment of tick-borne diseases and the continuing education is completed not more than two years before the start of the investigation.

**Senate Bill 189****Effective:** 9-1-11**Senate Author:** Nelson**House Sponsor:** Zerwas

Senate Bill 189 amends the Occupations Code to require 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 the Texas Medical Board 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 as a health professional shortage area or a medically underserved area. The bill specifies that such a requirement does not prohibit the board from issuing a license to such an applicant applying for a license to practice medicine at a graduate medical training program in Texas. The bill requires the board by rule to adopt rules and procedures to determine whether an applicant is complying with the agreement and authorizes the board to limit the license of such an applicant to an area designated as a health professional shortage area or a medically underserved area.

**Senate Bill 191****Effective:** Vetoed**Senate Author:** Nelson**House Sponsor:** King, Susan

Current law requires the Texas Medical Board, after receiving the administrative law judge's findings of fact and conclusions of law in a contested case under the Administrative Procedure Act, to determine the charges on the merits and authorizes the board to change a finding of fact or conclusion of law or vacate or modify an order of the administrative law judge under certain circumstances. Senate Bill 191 amends the Occupations Code to instead require the board to dispose the contested case after receiving such findings of fact and conclusions of law and prohibits the board from changing a finding of fact or conclusion of law or vacating or modifying such an order. The bill authorizes the board to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge; establishes that, for each case,

## Health and Medical Occupations

the board 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.

Reason Given for Veto: “I am vetoing Senate Bill 191 because I have serious concerns regarding overreliance on the State Office of Administrative Hearings (SOAH) in the disposition of contested case hearings at the Texas Medical Board. This provision is also included in House Bill 680.

“The board is charged with regulating the practice of medicine in Texas by, among other things, enforcing physicians’ standards of conduct and imposing appropriate sanctions when those standards are violated. When the board is unable to resolve a case, it is referred to an administrative law judge (ALJ) at SOAH. Senate Bill 191 requires the board to accept an ALJ’s findings of fact on whether a physician has committed a violation.

“This provision weakens the board’s authority to oversee physicians, and vests that authority instead in the ALJ. This bill treats the Texas Medical Board differently from every other occupational licensing agency by mandating that the board accept the ALJ’s findings.

“The responsibility for deciding whether a physician has violated a standard of conduct should belong to the multimember board, and not to a single ALJ. ALJs serve the important role of providing an independent forum for conducting adjudicative hearings to determine the facts, but their role is to assist agencies in reaching a proper decision, not to supplant them or relieve them of that duty.”

### **Senate Bill 192** **Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Howard, Donna et al.

Senate Bill 192 amends provisions of the Occupations Code to extend certain immunities from liability to a person who makes a good faith report under the Nursing Practice Act relating to patient care concerns or who advises a nurse of the nurse’s right or obligation to make such a report and to prohibit a nurse from being subject to retaliatory action as a result of refusing to engage in certain conduct relating to patient care, making a good faith report relating to patient care, or requesting a peer review committee determination of whether certain conduct violates a nurse’s duty to a patient. The bill includes provisions relating to the filing of a counterclaim by a person subject to retaliatory action as a result of providing certain advice regarding filing such a report, creates an administrative penalty for a violation of the prohibition against retaliatory action, specifies that a person who advises a nurse of the nurse’s right to make a report, refuse to engage in certain conduct, or request a nursing peer review committee determination has a cause of action against a person who commits such a violation and can recover certain damages, costs, and fees, and expands the meaning of “peer review.”

### **Senate Bill 193** **Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** King, Susan et al.

Senate Bill 193 amends the Occupations Code to make confidential certain information submitted to the Texas Board of Nursing for licensing purposes regarding a person’s drug or alcohol use and criminal history. The bill includes provisions relating to the use of a title to indicate a person’s status as a retired nurse or another appropriate title for a person whose license is on inactive status and who was in good standing at the time the license became inactive, disclosure to a peer assistance program of the results of a physical and psychological evaluation conducted to determine a person’s fitness to practice nursing, the proof that constitutes probable cause that a continuing and imminent threat to the public welfare exists, and a standardized error classification system for use by a nursing peer review committee in evaluating the conduct of a nurse. The bill extends by three days the deadline by which the State Office of Administrative Hearings is required to hold a preliminary hearing on the suspension or restriction of a nurse’s license to determine whether there is probable cause that a continuing and imminent threat to



the public welfare exists. The bill repeals a provision relating to employee group benefits, leave, and longevity pay applicable to nurses employed by medical and dental units.

**Senate Bill 227**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** King, Susan

Senate Bill 227 amends the Occupations Code to authorize the Texas Medical Board to issue and establish the terms of a remedial plan to resolve the investigation of a complaint against a physician. The bill 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. The bill also prohibits a plan from being imposed to resolve a complaint concerning certain matters or one in which the appropriate resolution may involve a restriction on the manner in which a license holder practices medicine. The bill prohibits the board 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 the board for the resolution of a different complaint against the physician. The bill authorizes the board to assess a fee against a license holder participating in a remedial plan.

**Senate Bill 263**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Kolkhorst

Senate Bill 263 amends the Occupations Code to require the Texas Medical Board to revoke the license of a physician placed on deferred adjudication for specified sexual offenses and to authorize a disciplinary panel appointed by the president of the board, under certain circumstances, to suspend or restrict the license of a person arrested for certain sexual offenses. The bill expands the list of felony convictions for which the board is prohibited from granting probation to a person whose license has been canceled, revoked, or suspended because of such a felony conviction to include a felony conviction for certain sexual offenses.

**Senate Bill 533**  
**Effective:** 9-1-11

**Senate Author:** Davis  
**House Sponsor:** Gallego

Current law requires the office of the attorney general to establish rules for the certification of sexual assault training programs and sexual assault nurse examiners. Senate Bill 533 amends the Government Code to also require that office to establish rules for certification renewal and to specify that a sexual assault nurse examiner is certified according to minimum standards prescribed by attorney general rule.

**Senate Bill 795**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Naishtat

Senate Bill 795 amends the Health and Safety Code to establish training and continuing education requirements for an applicant for listing on the nurse aide registry maintained by the Department of Aging and Disability Services and for renewing a listing, which expires on the second anniversary of the date of the listing. The bill requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement the requirements.

**Senate Bill 1360**  
**Effective:** 9-1-11

**Senate Author:** Harris et al.  
**House Sponsor:** Hunter et al.

Senate Bill 1360 amends the Occupations Code to encourage certain licensed physicians and licensed nurses whose practices include the treatment of tick-borne diseases to participate in continuing education relating to the treatment of tick-borne diseases. The bill sets out requirements for the Texas Medical Board and the Texas Board of Nursing in establishing the



## Health and Medical Occupations

content for the continuing education and requires the respective board, if relevant, to consider the physician's or nurse's participation in an approved continuing education course if the physician or nurse is being investigated because of the physician's or nurse's selection of clinical care for the treatment of tick-borne diseases and the continuing education is completed not more than two years before the start of the investigation.

**The summaries for the following bills are in the listed chapters:**

House Bill 15 - Health and Safety

House Bill 2245 - Human Services

House Bill 3085 - Health and Safety

House Bill 3579 - Higher Education

Senate Bill 1545 - Civil Remedies and Procedures

## Health and Safety

This chapter covers legislation on issues relating to diseases, medical conditions and procedures, organ donation, vaccinations and immunizations, and health code enforcement. The chapter also includes legislation relating to health care facilities, medical records, personal health information, and cemetery and funeral services establishments. Legislation relating to Medicaid, CHIP, indigent health care, nursing homes, assisted living facilities, and child-care facilities is in the **Human Services** chapter. Legislation relating to medical professions is in the **Health and Medical Occupations** chapter and legislation relating to hospital districts is in the **Special Districts** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 15**  
**Effective:** 9-1-11

**House Author:** Miller, Sid et al.  
**Senate Sponsor:** Patrick et al.

Current state law allows an abortion to be performed with the informed consent of the woman on whom the abortion is to be performed and sets out the conditions that constitute such consent. House Bill 15 amends the Health and Safety Code to include among the conditions constituting such consent that a sonogram is performed on the pregnant woman at least 24 hours before the abortion, or two hours before if the woman lives 100 miles or more from the nearest abortion provider that meets certain requirements; that the woman is informed of agencies that offer sonogram services at no cost to the woman; that certain results and explanations of the sonogram are made available to the woman; that the woman completes and certifies an abortion and sonogram election form; that the physician who is to perform the abortion receives a copy of the signed certification before the abortion is performed; and that the woman is provided with the name of each person who provides or explains required information. The woman may choose not to view certain printed materials or sonogram images, not to hear the heart auscultation, and, under certain conditions, not to receive the verbal explanation of the results of the sonogram images. A copy of the certified abortion and sonogram election form must be placed in the woman's medical records before an abortion begins and be retained for a specified period.

House Bill 15 authorizes a physician to perform an abortion without obtaining informed consent in a medical emergency. The physician must include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency and must certify to the Department of State Health Services the specific medical condition that constituted the emergency.

The bill adds provisions relating to informational materials to be provided to a woman seeking an abortion. Certain informational materials must include a comprehensive list of agencies and organizations that offer sonogram services at no cost to a pregnant woman. The physician or an agent of the physician is required to direct the woman to a Department of State Health Services Internet website containing such information and to provide the woman with a publication developed by the attorney general that provides information about paternity establishment and child support if the woman chooses not to have an abortion after being provided with a sonogram and information relating to informed consent. Other provisions specify how certain information that must be provided to meet the conditions of informed consent may be provided to the woman.

House Bill 15 prohibits a facility, during a visit made to the facility to fulfill the requirements of informed consent, from making any financial agreement for an abortion or abortion-related service other than payment for a service to fulfill those requirements. The amount charged for

such a service may not exceed a reimbursement rate established by the Health and Human Services Commission for statewide medical reimbursement programs. The Department of State Health Services is required to inspect an abortion facility at random, unannounced, and reasonable times to ensure compliance with the provisions relating to informed consent to abortion.

**House Bill 118**  
**Effective:** 9-1-11

**House Author:** McClendon  
**Senate Sponsor:** Uresti

House Bill 118 amends the Health and Safety Code to require a hospital to provide written notice to a patient, or the patient's legally authorized representative, that the hospital may authorize the disposal of medical records relating to the patient on or after the periods specified by law unless the records relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved. The bill sets deadlines by which such notice must be provided.

**House Bill 300**  
**Effective:** 9-1-12

**House Author:** Kolkhorst et al.  
**Senate Sponsor:** Nelson

House Bill 300 amends the Health and Safety Code to update provisions relating to compliance with the federal Health Insurance Portability and Accountability Act of 1996 and the privacy of protected health information. The bill updates provisions establishing the duties of the executive commissioner of the Health and Human Services Commission (HHSC) with regard to protected health information. The bill includes provisions relating to training required for employees of covered entities, consumer access to and use of protected health information, and a report by the attorney general regarding consumer complaints. The bill prohibits the sale of protected health information by a covered entity, with certain exceptions, sets out requirements relating to the electronic disclosure of certain protected health information, and requires the attorney general, not later than January 1, 2013, to adopt a standard authorization form for use in complying with those requirements. The bill raises and sets caps on the civil penalty that may be assessed against a covered entity for a violation of state medical records privacy laws based on certain standards of culpability and includes provisions relating to an action by the attorney general and the disciplinary powers of a licensing agency with regard to a violation of state medical records privacy laws.

House Bill 300 establishes the powers and duties of HHSC relating to audits of covered entities and requires HHSC and the Texas Department of Insurance (TDI), in consultation with the Texas Health Services Authority (THSA), to apply for and actively pursue available federal funding for enforcement of state medical records privacy laws.

House Bill 300 amends provisions of the Business & Commerce Code requiring a person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information to disclose any breach of system security to any state resident whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person and makes that requirement applicable also to a resident of another state that does not require such disclosure. The bill enhances the penalty for an offense of identity theft by electronic device if the information accessed, read, scanned, stored, or transferred was protected health information.

House Bill 300 amends the Government Code to require HHSC, in consultation with the Department of State Health Services, the Texas Medical Board, and TDI, to explore and evaluate new developments in safeguarding protected health information and to annually report to the legislature on those developments and recommendations for the implementation of safeguards within HHSC.

House Bill 300 amends the Insurance Code to require a covered entity, as defined by that code, to comply with state medical records privacy laws relating to prohibited acts and with the standards for electronic sharing of protected health information.

House Bill 300 requires HHSC, in consultation with THSA and the Texas Medical Board, to review issues regarding the security and accessibility of protected health information maintained by an unsustainable covered entity and to submit a legislative report including certain recommendations regarding those issues not later than December 1, 2012. The bill creates a task force on health information technology and requires the attorney general, not later than December 1, 2012, to appoint the task force members and chair.

**House Bill 577**  
**Effective:** 6-17-11

**House Author:** McClendon  
**Senate Sponsor:** Deuell

House Bill 577 amends the Health and Safety Code to establish that emergency medical services personnel responding to a call for assistance have no duty to review, examine, interpret, or honor a person's written directive other than a properly executed or issued out-of-hospital do-not-resuscitate (DNR) order or prescribed DNR identification device. The bill specifies the duties of emergency medical services personnel in certain emergency prehospital care situations based on the presence of a person's personal physician and whether the physician assumes responsibility for the care of the person.

**House Bill 963**  
**Effective:** 9-1-11

**House Author:** Hartnett  
**Senate Sponsor:** Rodriguez

House Bill 963 amends Health and Safety Code provisions relating to the disposition of cruelly treated animals to require a court that finds that an animal's owner has cruelly treated the animal to determine the estimated costs likely to be incurred in housing and caring for the impounded animal during the appeal process. The bill requires the court to set the amount of bond for an appeal equal to the sum of the amount of court costs for the original hearing, including administrative costs and the costs of housing and caring for the animal during its impoundment, and the amount of the estimated costs likely to be incurred during the appeal process. The bill also updates language relating to proceedings, entitles a party to the appeal to a jury trial on request, establishes that a person filing an appeal from a municipal court is not required to file a motion for a new trial to perfect an appeal, and establishes that a county court or a county court at law has jurisdiction to hear an appeal.

**House Bill 2061**  
**Effective:** 6-17-11

**House Author:** Pena et al.  
**Senate Sponsor:** Nelson

House Bill 2061 amends the Health and Safety Code to add a local registrar of vital statistics who has information relating to a birth, death, or fetal death to persons who are required to supply such information when requested by the director of the bureau of vital statistics, and clarifies that the information must be supplied to the director.

**House Bill 2102**  
**Effective:** 9-1-11

**House Author:** Hernandez Luna et al.  
**Senate Sponsor:** Ellis

House Bill 2102 amends the Health and Safety Code to require certain mammography facilities, on completion of a mammogram, to provide a notice to the patient that the patient might benefit from supplemental screening tests if the patient has risk factors for breast cancer and the mammogram demonstrates that the patient has dense breast tissue.

**House Bill 2904**

**Effective:** See below

**House Author:** Zerwas

**Senate Sponsor:** Zaffirini

Previous law required the Department of State Health Services (DSHS) to establish the Glenda Dawson Donate Life-Texas Registry and enter into an agreement with an organization for the establishment of a statewide Internet-based registry of organ, tissue, and eye donors. House Bill 2904 amends the Health and Safety Code to abolish that registry and instead require DSHS, not later than January 1, 2012, to contract with a nonprofit organization to maintain a statewide donor registry known as the Glenda Dawson Donate Life-Texas Registry and require that organization to establish and maintain a statewide Internet-based registry of organ, tissue, and eye donors. The bill revises provisions relating to the administration of the registry, including certain provisions relating to the inclusion of personal identification information in the registry, the allocation and disbursement of funds relating to the registry, and the development of registry-related training and education. The bill also abolishes the Texas Organ, Tissue, and Eye Donor Council effective January 1, 2012, and provides for the transfer to DSHS of the council's duties, property, unexpended appropriations, money, contracts, leases, rights, and obligations.

House Bill 2904 amends the Transportation Code to require the Department of Public Safety to specifically ask each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate whether the applicant wishes to register as an organ donor and, if so, to provide certain identifying information to the organization contracted to maintain the registry. The bill takes effect September 1, 2011, except for Health and Safety Code and Transportation Code provisions relating to the administration of the registry, which take effect January 1, 2012.

**House Bill 2940**

**Effective:** 6-17-11

**House Author:** King, Tracy O.

**Senate Sponsor:** Zaffirini

House Bill 2940 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to ensure that the prescribed form for death certificates and fetal death certificates instructs the person required to file the certificate to enter the date in the standard order of "month, day, year" and spell out the name of the month when entering the date. The bill requires DSHS to revise and make available the revised forms not later than January 1, 2012.

**House Bill 3065**

**Effective:** 6-17-11

**House Author:** Sheffield

**Senate Sponsor:** Nichols

House Bill 3065 repeals provisions of the Health and Safety Code that require a food service establishment at which space for eating is designed or designated to post a conspicuous sign that depicts the Heimlich maneuver for dislodging food from a choking person.

**House Bill 3085**

**Effective:** 9-1-11

**House Author:** Taylor, Larry

**Senate Sponsor:** Nelson

House Bill 3085 amends the Health and Safety Code to increase the term of a license issued by the Department of State Health Services for a freestanding emergency medical care facility from one year to two years.

**House Bill 3336**

**Effective:** 6-17-11

**House Author:** Coleman

**Senate Sponsor:** Deuell

House Bill 3336 amends the Health and Safety Code to require the resource pamphlet that 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 is required to provide to the woman and the father of the infant, if possible, or another caregiver for the infant, to include

educational information in both English and Spanish on 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.

**Senate Bill 80****Effective:** 6-17-11**Senate Author:** Nelson**House Sponsor:** King, Susan

Senate Bill 80 requires the Department of State Health Services (DSHS) to implement certain specified recommendations developed by the state auditor's office relating to billing practices, inventory, recordkeeping, and information security with regard to public health laboratories administered by the department. The bill authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement the recommendations and requires DSHS to submit a report on the department's implementation progress to the governor, lieutenant governor, speaker of the house of representatives, and legislature not later than September 1, 2012.

**Senate Bill 81****Effective:** See below**Senate Author:** Nelson**House Sponsor:** Kolkhorst

Senate Bill 81 amends the Health and Safety Code to, effective September 1, 2012, remove a person, firm, or corporation who ships raw fruits or vegetables from the persons exempt from licensure under the Texas Food, Drug, and Cosmetic Act as a food manufacturer, food wholesaler, or warehouse operator and to specify that a person, firm, or corporation that only harvests, packages, or washes raw fruits or vegetables for shipment at the location of harvest is exempt.

Senate Bill 81 establishes requirements for the Department of State Health Services (DSHS) in adopting rules relating to the minimum standards for granting and maintaining a license as a food manufacturer, food wholesaler, or warehouse operator. The bill requires DSHS to approve food safety best practice education programs for places of business licensed under the Texas Food, Drug, and Cosmetic Act. A business that completes an approved program will receive a certificate of completion, which an inspection authority is required to consider when determining which places of business to inspect. The bill requires DSHS to provide certain information relating to a federal regulation adopted as a state rule under the Texas Food, Drug, and Cosmetic Act on the department's Internet website. The bill exempts a cottage food production operation from certain provisions relating to the regulation of food service establishments, retail food stores, mobile food units, and roadside food vendors; prohibits local health departments from regulating cottage food production operations; establishes labeling requirements for cottage food production operations; and prohibits a cottage food production operation from selling certain foods through the Internet. The bill establishes provisions relating to the regulation of food at farmers' markets under temporary food establishment permits issued by DSHS or a local health department and authorizes the executive commissioner of the Health and Human Services Commission by rule to adopt temperature requirements for food sold or prepared at or transported to or from a farmers' market. The bill authorizes the municipality in which the farmers' market is located to adopt rules specifying the method or methods that must be used to comply with the temperature control requirements but prohibits the executive commissioner or a state or local enforcement agency from mandating a specific method. The bill makes these provisions effective September 1, 2011.



**Senate Bill 187**  
**Effective:** 9-1-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Zerwas

Senate Bill 187 amends the Health and Safety Code to require the Anatomical Board of the State of Texas to develop and make available on its website an informational document to inform a person making a human body or anatomical specimen donation for research or education of the risks and benefits of such a donation. The bill requires the board to prescribe a chain-of-custody form and adopt rules ensuring that the container in which a body or anatomical specimen is transported is labeled in a specified manner and that the form is completed, maintained, and transferred by each person having control or possession of the body or anatomical specimen.

**Senate Bill 894**  
**Effective:** 5-12-11

**Senate Author:** Duncan et al.  
**House Sponsor:** Coleman

Senate Bill 894 amends the Health and Safety Code, in provisions relating to the powers and duties of hospitals, to authorize a hospital that is designated as a critical access hospital under federal law, that is a sole community hospital as defined by federal law, or that is located in a county with a population of 50,000 or less 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 if the hospital satisfies certain requirements, including appointing a chief medical officer and adopting, maintaining, and enforcing policies to ensure that a physician exercises the physician's independent medical judgment in providing care.

**Senate Bill 969**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Kolkhorst

Senate Bill 969 amends the Health and Safety Code to establish the Public Health Funding and Policy Committee within the Department of State Health Services (DSHS) to define the core public health services a local health entity should provide in a county or municipality; evaluate public health in Texas 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 the state; and make certain related recommendations to DSHS. The bill sets out provisions relating to the administration of the committee and its powers and duties, makes the committee subject to the Texas Sunset Act, and abolishes the committee September 1, 2023. The bill sets out the powers and duties of DSHS with respect to the committee's recommendations and adds provisions relating to DSHS's relationship with local health entities.

**Senate Bill 1107**  
**Effective:** 5-27-11

**Senate Author:** Davis et al.  
**House Sponsor:** Howard, Charlie

Previous law established requirements relating to the vaccination against bacterial meningitis for a first-time student, including certain transfer students, of an institution of higher education or private or independent institution of higher education who resides or will reside in an on-campus student housing facility. Senate Bill 1107 amends the Education Code to specify that those requirements apply to an entering student, which includes a new student and a student who previously attended such institutions of higher education before January 1, 2012, and who is enrolling in the same or another institution following a break in enrollment of at least one fall or spring semester. The bill exempts from the immunization requirements a student who is enrolled only in online or other long-distance education courses or who is 30 years of age or older. The bill clarifies the evidence of bacterial meningitis vaccination dose or booster required to be provided to the institution by an applicable student and establishes a requirement that an

institution provide written notice of a student's right to claim exemption from the immunization requirement under certain circumstances and the importance of consulting with a physician about the need for the immunization. The bill prohibits the date by which applicable students are required to provide the institution with evidence of the vaccination from being later than the 10th day before the first day of the semester or other term in which the student initially enrolls and provides for an extension of that compliance date.

**Senate Bill 1449**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Raymond

Senate Bill 1449 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to accept, under certain circumstances, an accreditation review from the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission, or another national accreditation organization recognized by DSHS for a chemical dependency treatment facility instead of an inspection by DSHS for renewal of a license.

## **Cemeteries and Funeral Services**

**House Bill 788**  
**Effective:** 9-1-11

**House Author:** Kuempel et al.  
**Senate Sponsor:** Wentworth

House Bill 788 amends the Health and Safety Code to exempt from the prohibition against establishing or operating a cemetery in or near certain municipalities the establishment and use of a private family cemetery by a charitable organization that is exempt from federal income taxation, on land that is owned by the organization and that is located in a county that has a population of more than 125,000 and 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.

**House Bill 2495**  
**Effective:** 9-1-11

**House Author:** Hernandez Luna  
**Senate Sponsor:** Carona

House Bill 2495 amends the Health and Safety Code to make changes in provisions governing cemeteries and perpetual care cemetery corporations. The bill requires a corporation to hold a certificate of authority to operate a perpetual care cemetery and sets out provisions relating to the application process for and fees associated with the certificate, required qualifications of and the Banking Commissioner of Texas' authority to investigate an applicant, the issuance of the certificate by the commissioner, the terms and renewal of the certificate, the prohibition on transferring or assigning the certificate, transferring ownership of a certificate holder's business, and surrendering the certificate and the associated fee.

Among other provisions relating to perpetual care cemeteries, House Bill 2495 specifies conditions under which the commissioner is authorized to issue an order requiring restitution, a cease and desist order, and an emergency order and sets out provisions relating to the appointment by the attorney general of a receiver in conjunction with a proceeding to forfeit the right of a corporation to do business in Texas. The bill prohibits a perpetual care cemetery from being operated in Texas 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. The bill makes it an offense to collect money for the purchase of a memorial and knowingly defalcate or misappropriate such funds.

House Bill 2495 revises the requirements for lawn crypts and adds provisions relating to the construction of and sales contracts for lawn crypts. The bill terminates and transfers a person's

right to control the disposition of a decedent's remains if the person fails to make arrangements for such disposition by a certain deadline.

**House Bill 3004**  
**Effective:** 6-17-11

**House Author:** Nash  
**Senate Sponsor:** Carona

House Bill 3004 amends the Finance Code to require 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. The bill describes elements that constitute a reasonable effort and requires a permit holder that is unable to locate a substitute funeral provider to submit to the advisory council a list of information relating to the defaulting provider and to cooperate with the Texas Department of Banking and the advisory council in facilitating selection of a substitute funeral provider.

House Bill 3004 extends coverage under the prepaid funeral contract guaranty fund to the obligations of a third-party funeral provider under a prepaid funeral benefits contract, except the bill's provisions do not apply to a loss under a prepaid funeral benefits contract sold before the bill's effective date that arises from or relates to a default under the contract attributable to the funeral provider unless the funeral provider is also the contract seller or that arises from or relates to the bankruptcy receivership, seizure, or other failure of the funeral provider unless the funeral provider is also the contract seller. The bill authorizes a deposit of the guaranty fund with certain entities to be made wholly or partly, rather than only in its entirety.

House Bill 3004 removes the attorney general or the attorney general's representative as a member of the guaranty fund advisory council and authorizes the advisory council, under specified circumstances, to hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication method.

**Senate Bill 131**  
**Effective:** 9-1-11

**Senate Author:** Wentworth  
**House Sponsor:** Kuempel

Senate Bill 131 amends the Health and Safety Code to authorize a person, not later than September 1, 2014, to file a written application with the governing body of a municipality located in three or more counties that has a population of 10,000 or more and does not have a cemetery within its boundaries other than a family cemetery to establish or use a cemetery located inside the boundaries of the municipality if it is determined that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

**Senate Bill 864**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Marquez

Senate Bill 864 amends the Occupations Code to revise the terms of employment for a provisional license holder engaged in learning the practice of funeral directing or embalming. The bill authorizes the Texas Funeral Service Commission, in determining whether to charge a funeral director in charge with a violation based on conduct for which a licensed employee of the funeral establishment was directly responsible, to consider the nature and seriousness of the violation, the extent to which the licensed employee was under direct supervision of the funeral director in charge or another person at the time the licensed employee engaged in the conduct, and the causal connection between the supervision of the licensed employee by the funeral director in charge and the conduct engaged in by the licensed employee that is the basis of the violation.

## Diseases and Medical Conditions

### House Bill 114

**Effective:** 9-1-11

**House Author:** McClendon et al.

**Senate Sponsor:** Zaffirini

House Bill 114 amends the Government Code to designate April as Minority Cancer Awareness Month to increase awareness of cancer in minority populations and encourage funding of education and earlier and more effective diagnosis and treatment of cancer. The bill requires Minority Cancer Awareness Month to be regularly observed by appropriate activities in public locations.

### House Bill 123

**Effective:** 9-1-11

**House Author:** Veasey et al.

**Senate Sponsor:** Nelson et al.

House Bill 123 amends the Health and Safety Code to authorize the Department of State Health Services, in a county with a population of more than 100,000, to assist hospital districts and county hospital systems in providing an adult diabetes education program. The bill establishes requirements for a participating hospital district or county hospital system with regard to making the education program available in the county and requires the Texas Diabetes Council 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.

### House Bill 411

**Effective:** See below

**House Author:** Laubenberg et al.

**Senate Sponsor:** Deuell

House Bill 411 amends provisions of the Health and Safety Code relating to the disclosure of reports, records, and information obtained or developed by the Department of State Health Services (DSHS) through newborn screening tests. Among other provisions, the bill authorizes any such information, rather than only non-identifying information, to be disclosed under certain conditions for purposes relating to review, quality assurance, and improvement of the department's newborn screening program and for purposes related to obtaining or maintaining federal certification for the department's laboratory. Additionally, the bill requires a disclosure of newborn screening information for public health research purposes or for quality assurance purposes related to public health testing equipment and supplies to be approved by the commissioner of state health services or the commissioner's designee. The commissioner is authorized to approve such a disclosure under certain circumstances and DSHS is required to post notice on the department's newborn screening web page if approval is granted. Such notice is not required for information disclosed to a DSHS public health program. The bill authorizes non-identifying newborn screening information to be released to an entity other than a DSHS public health program for public health research purposes only if a parent, managing conservator, or guardian of the child consents to the disclosure and the disclosure is approved by an institutional review board or privacy board of DSHS in addition to the commissioner.

Previous law authorized a parent, managing conservator, or guardian of a newborn child to file with DSHS a statement prohibiting the retention of any genetic material related to newborn screening tests or the use of genetic material for any purpose other than the conduct of those tests and authorized an adult individual to file a statement instructing DSHS or a laboratory established or approved by DSHS to destroy any genetic material of the individual that was retained for newborn screening purposes. The bill removes those authorizations and instead sets deadlines by which DSHS is required to destroy any genetic material obtained from a child through newborn screening tests if consent to disclosure of that information for public health research purposes has not been obtained or has been revoked. A parent, managing conservator, or

guardian who consents to disclosure of newborn screening information may revoke the consent at any time and the child who is the subject of the information may revoke the consent at any time after attaining the age of majority. The bill revises the criteria for the disclosure statement that DSHS is required to give to a parent, managing conservator, or guardian of a child subjected to newborn screening tests.

House Bill 411 also amends provisions relating to hearing loss in newborns. Previous law required a birthing facility to offer the parents of a newborn a hearing screening for the newborn for the identification of hearing loss. The bill requires a birthing facility 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 or infant is discharged unless the parent declines the screening, the newborn or infant is transferred to another facility before the screening is performed, or the screening has previously been completed. The bill expands the list of facilities that are considered birthing facilities for such purposes and specifies that a midwife is not required to offer the parents of a newborn a hearing screening for the newborn, but is required to refer the parents to a birthing facility or a provider participating in a certified newborn hearing screening, tracking, and intervention program. The bill expands and establishes reporting requirements for certain providers of newborn hearing services, authorizes those providers to obtain certain newborn hearing information from DSHS, and establishes requirements regarding the provision of follow-up screening, diagnostic audiological evaluation, and intervention services to newborns or infants who do not pass the initial screening. The bill revises the certification criteria for a newborn hearing screening, tracking, and intervention program to require that a program be supervised by a physician, an audiologist, a registered nurse, or a physician assistant.

House Bill 411 takes effect June 17, 2011, except for provisions relating to the newborn screening information disclosure statement, the destruction of genetic material obtained from newborn screening tests, and the requirement to obtain consent from a parent, managing conservator, or guardian before disclosing newborn screening information for certain public health research purposes, which take effect June 1, 2012.

**House Bill 2229**

**Effective:** 9-1-11

**House Author:** Coleman et al.

**Senate Sponsor:** Ellis

House Bill 2229 amends the Health and Safety Code to create the Texas HIV Medication Advisory Committee to advise the executive commissioner of the Health and Human Services Commission and the Department of State Health Services (DSHS) in the development of procedures and guidelines for the HIV medication program. The bill sets out provisions relating to the composition of the committee, terms of committee members, committee officers, committee meetings, attendance at committee meetings, reimbursement and compensation for certain expenses, committee procedures, and the establishment of subcommittees. The bill requires the committee to file an annual written report with the commissioner of DSHS.

**House Bill 2312**

**Effective:** 6-17-11

**House Author:** Coleman et al.

**Senate Sponsor:** West

House Bill 2312 amends the Health and Safety Code to create a sickle cell disease program. The bill requires the Department of State Health Services (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 and requires the governor to appoint an advisory committee, including a program administrator, that conducts a needs assessment and makes recommendations regarding the needs of those individuals. The bill requires DSHS to assist the advisory committee and provide it the staff support necessary to fulfill its duties.



The bill requires the program administrator to investigate and identify grants and other funding mechanisms for entities that perform certain activities relating to sickle cell trait and sickle cell disease and to award grants, if possible, to eligible organizations in different regions of Texas. The bill authorizes DSHS to solicit and accept gifts, grants, and donations of money to be used for the purpose of awarding such grants. The bill authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement the sickle cell disease program. Provisions relating to the sickle cell disease program expire September 1, 2017.

**House Bill 2636****Effective:** 9-1-11**House Author:** Kolkhorst et al.**Senate Sponsor:** Nelson

House Bill 2636 requires the executive commissioner of the Health and Human Services Commission to create and appoint the members of the Neonatal Intensive Care Unit Council to study and make recommendations regarding neonatal intensive care unit operating standards and reimbursement through the Medicaid program for services provided to an infant admitted to a neonatal intensive care unit. The bill provides for the duties, composition, and organization of the council and requires the council, not later than January 1, 2013, to submit a report to specified state officials on the council's findings and recommendations. Provisions relating to the council expire June 1, 2013.

**House Bill 3724****Effective:** 9-1-11**House Author:** Guillen**Senate Sponsor:** Zaffirini et al.

House Bill 3724 amends the Health and Safety Code to continue the Chronic Kidney Disease Task Force until August 31, 2013, revise the task force's duties, and extend the deadline by which the task force is required to submit a report regarding its findings and recommendations to January 1, 2013.

**Senate Bill 156****Effective:** 9-1-11**Senate Author:** Huffman**House Sponsor:** Gonzales, Veronica

Senate Bill 156 amends the Health and Safety Code to establish the Texas Bleeding Disorders Advisory Council to conduct studies and advise the Department of State Health Services (DSHS), the Health and Human Services Commission (HHSC), and the Texas Department of Insurance on certain information submitted to or collected by DSHS related to hemophilia or other bleeding or clotting disorders, the disclosure and dissemination of that information, and other issues that affect the health and wellness of persons living with hemophilia or other bleeding or clotting disorders. The bill sets out administrative provisions relating to the council and accounts for the transfer of duties from the Texas Health Care Information Council to DSHS. Previous law required the Texas Health Care Information Council to establish a scientific review panel to review and approve requests for information other than public use data. The bill instead requires DSHS to establish an institutional review board to review and approve requests for access to data not contained in public use data.

While previous law prohibited DSHS from providing confidential information collected by DSHS to any other state agency, Senate Bill 156 authorizes, under certain circumstances, the provision of such data to HHSC or a health and human services agency. The bill authorizes the disclosure of data collected by DSHS that is not included in public use data to any program within DSHS if the disclosure is approved by the institutional review board, provides for the confidentiality of information so disclosed, and makes specified provisions relating to the confidentiality of certain information inapplicable to the disclosure of data to a DSHS program. The bill repeals a provision relating to the Texas Health Care Information Council.



**Senate Bill 229**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** King, Susan et al.

Senate Bill 229 amends the Health and Safety Code to expand the application of provisions relating to newborn hearing screenings and hearing services to cover any licensed hospital or licensed birthing center without regard to the county in which the facility is located and to include a facility maintained or operated by the state or an agency of the state and that provides obstetrical services. The bill excepts a midwife who attends the birth of a newborn from the newborn hearing screening requirement, but requires the midwife to refer the parents to a birthing facility or a provider that participates in a newborn hearing screening, tracking, and intervention program certified by the Department of State Health Services. The bill includes provisions relating to reporting requirements for a birthing facility and a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral to perform newborn hearing screening and hearing services.

**Senate Bill 510**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Gutierrez

Senate Bill 510 amends the Health and Safety Code to require the Department of State Health Services (DSHS), in coordination with participating public health districts that serve a county having a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality, to create and maintain an electronic diabetes mellitus 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. The bill requires a participating public health district to compile the results of submitted glycosylated hemoglobin tests for purposes of tracking the prevalence, level of control, and diagnosis of and health care costs relating to diabetes mellitus among people tested in the district. The bill includes provisions relating to the confidentiality of information obtained in connection with the registry and requires DSHS to submit a biennial report regarding the registry to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature.

**Senate Bill 796**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** King, Susan

Senate Bill 796 amends the Health and Safety Code to set out provisions relating to reporting on and assessing programs for the prevention and treatment of diabetes in Texas, including deadlines for submitting the reports and assessment.

## **Health Care Facilities**

**House Bill 3369**  
**Effective:** 9-1-11

**House Author:** King, Susan  
**Senate Sponsor:** Nelson

Current law exempts certain licensed health care facilities that provide physical therapy services from registration as a physical therapy facility. House Bill 3369 amends the Occupations Code to authorize the Texas Board of Physical Therapy Examiners to exempt other facilities that provide physical therapy from such registration requirements as appropriate.

**Senate Bill 335**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Eiland

Senate Bill 335 amends the Occupations Code to include a government-owned or government-operated hospital or clinic among the businesses that are exempt from regulation as health spas.

**Senate Bill 761**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Truitt

Senate Bill 761 amends the Health and Safety Code to authorize certain hospitals associated with nonprofit fraternal organizations 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 satisfies certain conditions. The bill requires such a hospital to appoint a chief medical officer and designate the chief medical officer as the contact for the Texas Medical Board for certain matters relating to a physician employed by a hospital, and to adopt, maintain, and enforce policies to ensure that a physician exercises independent medical judgment in providing care. The bill requires a conflict management process to be developed and implemented to resolve a conflict between a policy approved by the chief medical officer and the hospital and sets out reporting requirements for a physician employed by the hospital and the chief medical examiner.

**Senate Bill 1926**  
**Effective:** 6-17-11

**Senate Author:** Lucio  
**House Sponsor:** Lucio III

Senate Bill 1926 amends the Health and Safety Code to remove 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.

**The summaries for the following bills are in the listed chapters:**

House Bill 549 - Family Law

House Bill 2038 - Public Education

House Bill 2643 - Occupational Regulation

Senate Bill 27 - Public Education

Senate Bill 71 - Human Services

Senate Bill 78 - Human Services

Senate Bill 494 - Local Government



# Higher Education

This chapter includes legislation affecting the governance of the state's public colleges and universities and junior and community college districts in general; the mission, operation, and funding of specific institutions; and the admission and enrollment of students at such institutions. The chapter also includes legislation affecting tuition, fees, student financial aid, and other higher education funding issues, and legislation relating to education benefits for military personnel. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 1000**

**Effective:** 6-17-11

**House Author:** Branch et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 1000 amends the Education Code to revise the criteria under which a general academic teaching institution is eligible to receive a distribution of money from the national research university fund. The bill requires the Texas Higher Education Coordinating Board by rule to prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining the amount of restricted research funds expended by an eligible institution in a state fiscal year, in addition to determining the eligibility of such institutions to receive distributions from the national research university fund. The bill specifies that the verified information relating to eligibility criteria certified to the legislature by the coordinating board is used to determine which institutions are eligible for fund distributions, rather than to determine which institutions are initially eligible, and adds the comptroller of public accounts as a recipient of the certified criteria.

The bill authorizes the coordinating board to request certain audits by the state auditor with regard to the fund and requires the comptroller to reimburse the state auditor for the expenses of any such audits from money appropriated from the fund.

Previous law required the comptroller, in each state fiscal year, to distribute to eligible institutions the total amount appropriated from the fund for that fiscal year. The amount was allocated based on an equitable formula adopted by the legislature to carry out the constitutional purposes of the fund. The bill caps the total amount appropriated from the fund for any state fiscal year at an amount equal to 4.5 percent of the average net market value of the investment assets of the fund for the 12 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller. The bill also provides for the distribution of the appropriated amount to each eligible institution and makes an initial appropriation to the comptroller from the fund for that purpose.

### **House Bill 2784**

**Effective:** 9-1-11

**House Author:** Alonzo

**Senate Sponsor:** Hinojosa

House Bill 2784 amends the Education Code to revise the required elements of a refund policy for courses or programs, rather than for courses only, each career school or college must maintain as a condition for certification. The bill makes specified effective dates of termination for refund purposes apply to residence programs and synchronous distance education courses or programs, rather than to residence career schools or colleges.

House Bill 2784 sets a cap of \$100 on the amount of any administrative fees charged that a career school or college is authorized to retain for a student who enters a residence program or a synchronous distance education course and who withdraws or is otherwise terminated. The bill also revises the minimum refund of the remaining tuition and fees at a specified pro rata portion

of tuition, fees, and other charges. 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.

House Bill 2784 revises the grading policies for a student of a career school or college who withdraws under certain circumstances during the portion of a program for which the student is not eligible to collect a refund. The bill also specifies that, for a student who fails to enter a program that is 40 hours or less of course time, or a seminar or workshop, or who withdraws or is discontinued from the program, the refund amount to which the student is entitled based on a pro rata portion of the associated charges applies to such charges that the applicable number of hours remaining in the program bears to the total number of hours in the program for which the student has been charged.

**House Bill 2910**

**Effective:** 6-17-11

**House Author:** Branch et al.

**Senate Sponsor:** Zaffirini

House Bill 2910 amends the Education Code to authorize the Texas Higher Education Coordinating Board, in partnership with institutions of higher education, to enter into an agreement with nonprofit organizations to assist the coordinating board in identifying and implementing effective methods for increasing degree completion rates at such institutions. The bill authorizes the coordinating board to establish by rule a grant program to fund projects related to the improvement of degree completion rates and requires the coordinating board, if it establishes such a grant program, to prescribe by rule the application procedure and criteria for awarding a grant. The bill authorizes the funding of such grants by appropriations and gifts, grants, and other donations and requires the coordinating board to report to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency before the 83rd Regular Session on the types of grant-eligible nonprofit organizations, grants awarded, and similar public-private partnerships in other states.

The bill establishes the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program and sets out eligibility criteria for students and institutions. The bill requires the coordinating board, subject to available funding, to award scholarships under the program, with at least 50 percent of the amount awarded from private funds, and limits an individual student's receipt of such a scholarship to two academic years. The bill authorizes the coordinating board to use any available revenue and to solicit and accept gifts and grants for purposes of the program.

**House Bill 2937**

**Effective:** 6-17-11

**House Author:** Lewis

**Senate Sponsor:** Zaffirini

House Bill 2937 amends the Government Code to extend the entitlement of an institution of higher education to obtain from the Department of Public Safety criminal history record information relating to a person who is an applicant for a security-sensitive position to the Texas Higher Education Coordinating Board. The bill clarifies that all criminal history record information obtained in that manner is to be destroyed by the respective entities as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment, and requires the information to be destroyed after it is used for its authorized purposes if the individual is not hired for the position.

**House Bill 3468**

**Effective:** 6-17-11

**House Author:** Patrick et al.

**Senate Sponsor:** Shapiro

House Bill 3468 amends the Education Code to require the Texas Education Agency (TEA), in consultation with the Texas Higher Education Coordinating Board, to conduct a study of best

practices for and existing programs offering early assessments of high school students and to prepare a report that contains certain recommendations relating to early assessments of college readiness.

The bill requires the TEA, in consultation with the coordinating board, to review the required adult education standardized assessment mechanism and recommend any changes necessary to align the assessment with the assessments designated under the Success Initiative.

The bill requires the coordinating board to encourage institutions of higher education to offer various types of adult education developmental course work that address various levels of deficiency in readiness to perform college course work for which course credit may be earned, as determined on the basis of diagnostic assessment instruments administered as part of the Success Initiative. The bill requires the coordinating board, in consultation with institutions of higher education, to use evidence-based studies and existing data to study and analyze certain items with regard to the Success Initiative and to prepare a written report based on the study that contains certain recommendations.

House Bill 3468 requires the coordinating board to include in its periodic review of formulas used in making appropriations recommendations to the legislature for all institutions of higher education recommendations for changes in funding formulas for developmental education programs based on the results of the study and the report relating to assessment instruments, differentiated placements, and formula funding under the Success Initiative.

**House Bill 3708**

**Effective:** See below

**House Author:** Hochberg

**Senate Sponsor:** Zaffirini

House Bill 3708 amends the Education Code to authorize a public junior college located in a county with a population of 750,000 or more and with less than 65 percent of the county population 25 years and older having graduated from high school to enter into an articulation agreement to partner with one or more school districts in the college's district that have a dropout rate above 15 percent to provide on the junior college campus a dropout recovery program for students to successfully complete and receive a high school diploma from the appropriate partnering school district. The bill sets out eligibility requirements for a person under the age of 26 to enroll in the program, program development requirements for the junior college, and program financing provisions relating to the program's per-student funding and funding sources.

House Bill 3708 expands the Texas Save and Match program to authorize the matching of money contributed to a savings trust by an account owner under a higher education savings plan as well as money paid by a purchaser under a prepaid tuition contract. The bill revises the initial eligibility requirements for a beneficiary, provides for the forfeiture of a matching account and its reversion to the Prepaid Higher Education Tuition Board or program entity under certain circumstances, requires a separate accounting of a matching account and the related contract or trust account balance, and establishes the confidentiality of program records. The bill authorizes the board to establish pilot projects under the program and establishes the Texas save and match trust fund as a trust fund to be held with the comptroller of public accounts, restricts the fund's use to specific program purposes, and authorizes the fund's investment by the board.

House Bill 3708 requires the commissioner of education to transfer gifts, grants, and donations made to the Texas Education Agency for the purpose of tuition exemptions for educational aides to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide such exemptions and removes the requirement that savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program that are not required for the funding of certain state or school district credits be used first to provide one-year tuition exemptions for specified Temporary Assistance for Needy Families students, with the remainder used for tuition exemptions for educational aides. Previous law entitled an



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eligible person under the Early High School Graduation Scholarship program to a state credit to apply toward tuition or tuition and mandatory fees at a state public or private institution of higher education. The bill instead requires the commissioner of education to award such credits, caps the total amount of such credits at the amount appropriated for the current state fiscal year for such purposes, and changes the amount transferred from the commissioner to the coordinating board for the payment of the credit. The bill repeals provisions relating to the funding of the program under the Foundation School Program.

House Bill 3708 amends the Education Code, Health and Safety Code, and Human Resources Code to exclude assets in prepaid tuition programs and higher education savings plans from consideration as income or resources for purposes of determining any of the following: a person's eligibility for a TEXAS grant or any other state-funded student financial assistance; whether a child meets family income and resource requirements for eligibility for the child health plan; the amount of financial assistance granted to an individual for the support of dependent children or whether the family meets household income and resource requirements for financial assistance; or eligibility and need for medical assistance.

House Bill 3708 takes effect September 1, 2011, except that repeal of provisions relating to the Texas Save and Match program superseded by the bill takes effect January 1, 2012.

**House Joint Resolution 130**  
**Effective:** 6-17-11

**House Author:** Branch  
**Senate Sponsor:** Birdwell

House Joint Resolution 130 was adopted by the 82nd Legislature to serve as notice to the United States Department of Education that the colleges and universities named in the resolution are authorized in Texas to operate educational programs beyond secondary education, including programs leading to a degree or certificate, and that therefore the state has met the conditions of certain federal regulations relating to the legal authorization of institutions of higher education to operate such programs.

**Senate Bill 5**  
**Effective:** See below

**Senate Author:** Zaffirini  
**House Sponsor:** Branch

Senate Bill 5 amends Education Code, Government Code, Health and Safety Code, Insurance Code, Labor Code, Natural Resources Code, Property Code, Tax Code, and Vernon's Texas Civil Statutes provisions relating to the administration and business affairs of public institutions of higher education as follows, effective June 17, 2011.

With respect to the financial management of institutions of higher education, Article 1, Senate Bill 5:

- under certain conditions and restrictions, authorizes an institution's governing board to maintain unsecured deposits in a foreign bank as necessary to support the institution's academic and research operations in the foreign country in which the bank is located;
- exempts an institution from having to expend resources for further collection efforts of a delinquent obligation if, considering certain relevant factors, the institution determines that further collection should not be actively pursued;
- authorizes an institution to maintain an unclaimed money fund to hold credit balances of less than \$25 that are presumed abandoned and exempts balances in such a fund from requirements for reporting, delivery, and claims processing of unclaimed property;
- authorizes an institution to make any payment through electronic funds transfer or by electronic pay card;

- requires each institution to post on its Internet website a copy of its financial transactions to the extent necessary to provide for each payment the amount, date, and purpose of the payment and the payee's name; and
- exempts a state security issued by an institution, at its request, or for its benefit from Bond Review Board review and approval if the institution or the university system of which it is a component has a specified unenhanced long-term debt rating and state general revenue is not pledged to pay the security.

With respect to acquisition of higher education goods and services, Article 2, Senate Bill 5:

- clarifies conflict-of-interest provisions relating to the qualifications of certain business entities to contract with an institution of higher education;
- with the exception of professional services, exempts an institution's acquisition of goods and services from statutory provisions governing state purchasing and general and consulting services, provided the institution complies with state law relating to contracting with historically underutilized businesses or persons with disabilities;
- requires an institution or university system to determine whether, and the extent to which, it will send and accept electronic or digital signatures and otherwise create, communicate, store, process, use, and rely on electronic or digital signatures;
- exempts the purchase of liability insurance by an institution or university system from statutory provisions requiring purchase of policies on state-approved policy forms from a liability insurance company authorized to do business in Texas;
- authorizes a local government and an institution or university system to contract with one another to perform any governmental functions and services and exempts such functions and services from competitive procurement requirements if the contract provides for payment based on cost recovery; and
- requires a university system or institution to notify the Legislative Budget Board in writing of a contract for a major information system only if the cost exceeds \$1 million.

With respect to an institution of higher education's human resources, Article 3, Senate Bill 5:

- permits the governing board of a university system or of an institution 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 a system to establish insurance premium discounts, surcharges, rebates, or a revision in insurance copayments, coinsurance, or deductibles, or any combination of incentives, for an individual who participates in system-approved programs promoting disease prevention, wellness, and health;
- exempts a university system's contributions to the uniform program for a tenured faculty member working less than 40 hours a week before the member's retirement from the limitation on such contributions for certain part-time employees; and
- specifies the amount of an authorized payroll deduction for an individual automatically enrolled in a uniform program as the difference between the total cost of the employee's basic coverage and the amount contributed by the system for that basic coverage.

With respect to real estate and construction, Article 4, Senate Bill 5:

- establishes an expedited process for coordinating board approval of certain higher education capital acquisition or improvement projects;
- exempts a higher education construction project from statutory provisions requiring uniform general conditions in state construction contracts and exempts a university system from statutory provisions governing leasing of space for state agencies; and

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- limits the attachment of a deferred tax lien to the estate of the life tenant and not to the remainder interest if the owner of the remainder is an institution of higher education that has not consented to the deferral.

With respect to higher education memberships and appointments, Article 5, Senate Bill 5:

- clarifies the nature of information relating to an applicant for the position of chief executive officer of an institution of higher education that is temporarily protected from public disclosure under the state's open records law; and
- removes a member of The University of Texas System board of regents from the Type 2 Diabetes Risk Assessment Program Advisory Committee and removes a board appointee from the Gaines County Solid Waste Management District's board of directors.

With respect to reports, records, audits, and notices required of institutions of higher education, Article 6, Senate Bill 5:

- exempts a medical or dental unit from the annual reporting requirement regarding student success under the Success Initiative;
- removes a small class reporting requirement applicable to each institution and exempts a university system or institution of higher education from having to make certain reports required by statute or rule on or after September 1, 2013, unless a law passed by the 83rd Legislature or a rule affirmatively readopted expressly requires that report;
- protects from disclosure information maintained by or for an institution relating to the commercialization of research or unpublished data;
- requires the governor's office and the Legislative Budget Board to review the forms for higher education legislative appropriations requests to identify potential improvements in efficiency, transparency of funding sources, elimination of unnecessary or duplicative requirements, and reduction in cost or difficulty of providing information for a request; and
- exempts university systems and institutions of higher education from the comptroller of public accounts property accounting system and instead requires each system or institution to designate one or more property managers and exempts such systems and institutions from certain annual reporting requirements and from certain notification requirements generally applicable to state agencies.

With respect to student fee advisory committees, Article 7, Senate Bill 5, requires such advisory committee to conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with certain notice procedures prescribed by the institution's president.

With respect to The Texas A&M University System, Article 8, Senate Bill 5, establishes The Texas A&M University System Health Science Center, consisting of the specified system components, and also establishes The Texas A&M University System Health Science Center Irma Rangel College of Pharmacy.

Article 9, Senate Bill 5, repeals, effective September 1, 2011, provisions relating to certain reports of information regarding higher education, a uniform recruitment and retention strategy, project approval by the Texas Higher Education Coordinating Board, and a consolidated public junior and community college plan, and effective September 1, 2013, provisions relating to certain reports of information and studies regarding higher education, the submission of a campus master plan, and certain review and approval processes by the coordinating board.

**Senate Bill 32**  
**Effective:** 1-1-12

**Senate Author:** Zaffirini  
**House Sponsor:** Branch

Senate Bill 32 transfers, redesignates, and amends provisions of the Education Code and a provision of the Government Code relating to higher education programs governing tuition, fee exemptions, and waivers respective to specific target populations to consolidate such provisions into one chapter of the Education Code. The bill makes related conforming changes in the Education Code, Family Code, and Government Code.

**Senate Bill 528**  
**Effective:** 9-1-11

**Senate Author:** Huffman  
**House Sponsor:** Coleman

Senate Bill 528 amends the Education Code to change the requirements relating to regular meetings of the University of Houston System Board of Regents and to authorize the board by rule to establish a procedure for calling a special meeting.

**Senate Bill 873**  
**Effective:** 5-9-11

**Senate Author:** Duncan et al.  
**House Sponsor:** Hilderbran

Senate Bill 873 amends a provision in the Education Code relating to the management of lands dedicated to The University of Texas System to require the board of regents to establish procedures by which a person seeking an easement or other interest from the system 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.

**Senate Bill 1176**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Davis, John

Senate Bill 1176 amends the Education Code to define “postsecondary program” for purposes of the law prohibiting a career school or college from conducting a postsecondary program of organized instruction or study until the career school or college receives a certificate of approval from the Texas Workforce Commission.

**Senate Bill 1414**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Eiland

Senate Bill 1414 amends the Education Code to prohibit a person who owns, operates, or supervises a campus program for minors on the campus of a public, private, or independent institution of higher education from employing an individual in a position involving contact with campers at the program unless the individual within the preceding two years successfully completed a training and examination program on sexual abuse and child molestation approved by the Department of State Health Services or the individual successfully completes such a program during the individual’s first five days of employment by the campus program for minors. The bill establishes documentation requirements for purposes of verifying the individual’s successful completion of a training and examination program.

Senate Bill 1414 requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2011, to establish by rule criteria and guidelines for the training and examination program on sexual abuse and child molestation and authorizes the department to approve such programs offered by trainers under contract with campus programs for minors or by online training organizations or offered in another format authorized by the department. The bill sets out provisions authorizing the department’s assessment of certain fees to cover the costs of administering the bill’s provisions, requiring a five-year review cycle for each approved training and examination program, and authorizing the department to investigate suspected violations of those provisions or of a rule adopted under those provisions. The bill

specifies that a violation is subject to certain enforcement provisions as if the person violated the Texas Youth Camp Safety and Health Act or a rule adopted under that act and grants the program operator and the institution that operates the campus program for minors or at which the campus program is conducted immunity from civil or criminal liability for any act or omission of an employee for which the employee is immune under certain provisions of the Family Code.

## **Governance and Policy**

### **House Bill 9**

**Effective:** 6-17-11

**House Author:** Branch et al.

**Senate Sponsor:** Zaffirini

House Bill 9 amends the Education Code to establish the Higher Education Outcomes-Based Funding Act requiring the Texas Higher Education Coordinating Board, in devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds for general academic teaching institutions other than public state colleges, to incorporate the consideration of undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions. The bill also requires the coordinating board to make recommendations for incorporating the success measures into the distribution of any incentive funds available to those institutions, as well as to public junior colleges, public state colleges, and public technical institutes. The bill sets out certain requirements relating to the application of such recommendations and authorizes the success measures to include certain criteria.

The bill limits the amount of general revenue appropriations for undergraduate education recommended by the coordinating board for general academic teaching institutions other than public state colleges that may be based on student success measures and provides for a biennial review of the success measures.

The bill requires the coordinating board to adopt rules for the administration of the bill's provisions relating to student success-based funding recommendations, sets out requirements relating to the composition of committees formed to review the formulas for making appropriations recommendations, and requires the coordinating board to report to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency before the 83rd Regular Session.

### **House Bill 33**

**Effective:** 9-1-11

**House Author:** Branch et al.

**Senate Sponsor:** Zaffirini

House Bill 33 amends the Education Code to require an institution of higher education, for each semester or academic term, to compile a course schedule indicating each course offered by the institution for the semester or term and, with respect to each course, to include with the schedule a list of the required and recommended textbooks that specifies, to the extent practicable, each textbook's retail price, author, publisher, most recent copyright date, and International Standard Book Number, if any. The bill sets out requirements relating to the dissemination of the course schedule and textbook list to an institution's students and to the bookstores generally serving those students, including the establishment of deadlines for faculty submission of course schedule and textbook information and for the dissemination of such information to allow for timely placement of student textbook orders.

House Bill 33 requires a textbook publisher that provides information regarding a textbook or supplemental material to a faculty member or other person in charge of selecting course materials at an institution of higher education to provide written information relating to textbook prices, copyright dates for the current and three preceding textbook editions, any substantial revisions



made since the most recent preceding edition, and any alternative formats available. The bill requires a publisher that offers a textbook bundle for sale also to offer each individual item in the bundle as a separate and separately priced, unbundled item for sale.

House Bill 33 makes its provisions applicable beginning with the 2012 fall semester.

**House Bill 736**

**Effective:** 6-17-11

**House Author:** Patrick et al.

**Senate Sponsor:** West

House Bill 736 amends the Education Code to require each general academic teaching institution to make available to the public on the institution's Internet website certain faculty information for the institution and to require each institution to update this information for the preceding academic or fiscal year, as applicable. The bill makes the administrator designated by such an institution to ensure the implementation of Internet access to certain undergraduate course information responsible also for ensuring the implementation of Internet access to the specified faculty data and authorizes the Texas Higher Education Coordinating Board to adopt rules necessary to administer these provisions.

House Bill 736 specifies the placement and distinguishing font characteristic of the link to the online resume of each institution of higher education that is maintained by the coordinating board, which link must appear on the home pages of the Internet websites of the coordinating board and of each institution, respectively, and establishes additional requirements for the contents of such institutional resumes, including requirements relating to transfer student data; student loan, grant, and scholarship information; additional measures of student success; sources of institutional funding; and additional student cost data.

House Bill 736 requires the coordinating board and the Texas Workforce Commission to develop jointly a comprehensive strategy to improve and coordinate the dissemination of online information regarding the operation and performance of career schools or colleges in Texas and to organize the information as nearly as possible according to the categories of information required for the online resumes of lower-division public institutions.

The bill also requires the coordinating board to create and post on the coordinating board's website a comparison 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.

**House Bill 992**

**Effective:** Vetoed

**House Author:** Castro

**Senate Sponsor:** Zaffirini

House Bill 992 amends the Education Code to require an institution of higher education to provide written notice to each undergraduate student before the end of the first semester in which the student is enrolled in the institution of limitations on the number of courses the student may drop. The bill excludes semester credit hours earned by a 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 from the computation of semester credit hours for purposes of determining whether the student has exceeded the 30-semester-hour limit on the number of credit hours above the student's degree requirements that are eligible for funding under the state's higher education funding formulas.

Reason Given for Veto: "House Bill 992 would exempt community college semester credit hours, other than those required for a baccalaureate degree, from counting against the excess semester credit hour cap, which is 30 hours above the degree requirement. House Bill 992 removes important incentives for students and community colleges to focus on degree completion.

"House Bill 992 would encourage students to waste time and money, along with taxpayer dollars, and would prevent students and community colleges from being held accountable for responsible academic planning and advising.



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“Rather than exempt non-required community college courses from the excess semester credit hour cap, a better solution is to improve matriculation agreements and student advising so students can transfer more hours that do count toward degree completion.”

### **House Bill 1206**

**Effective:** 9-1-11

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 1206 amends the Education Code to require each member of a governing board of an institution of higher education to attend at least one training program for members of such governing boards during the member’s first two years of service on the governing board regardless of whether that board’s membership is appointed or elected by removing provisions that made such training mandatory only for members of appointed boards. The bill requires the Texas Higher Education Coordinating Board to provide an equivalent training program by electronic means if a governing board member is unable to attend as required.

The bill requires topics covered by the training program for members of a public junior college district to include information about best practices in campus financial management, financial ratio analysis, and case studies using financial indicators, in addition to the content of the instruction generally required at a board member training program, 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 board member has completed any training required to be completed by the member as of the meeting date.

### **House Bill 1341**

**Effective:** 6-17-11

**House Author:** Walle

**Senate Sponsor:** Zaffirini

House Bill 1341 amends the Education Code to clarify that the fees for which, along with tuition, the governing board of each institution of higher education is required to provide alternative payment plans are mandatory fees and that the plan options apply to the payment of tuition and fees for a semester or a term of 10 weeks or longer, rather than for the fall and spring semesters. The bill changes the deadline for payment under the full payment option and for the first payment under the installment payment option to specify a full or first payment not later than the date set by each institution of higher education, rather than in advance of the start of the semester, and requires an institution, in providing for an installment payment option, to establish subsequent dates at periodic intervals within the applicable semester or term by which subsequent installment payments are due. The bill establishes similar provisions for the payment of tuition and mandatory fees for a term of less than 10 weeks rather than for a summer term and removes a provision setting out a payment option for a student enrolled in a summer term in a public junior college, public technical institute, or public state college.

House Bill 1341 prohibits a payment due date established by an institution of higher education from being later than the date established by the Texas Higher Education Coordinating Board for certifying student enrollment for the semester or term for purposes of formula funding. The bill removes a provision requiring a student who owes a balance of tuition and fees under certain circumstances to pay the balance owed not later than the next due date and instead authorizes an institution of higher education to collect, on a due date subsequent to a due date established for a semester or term, 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.

**House Bill 1839**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Jackson

House Bill 1839 amends the Education Code to exempt from regulation as a career school or college a school or training program that offers only avocational or recreational instruction or teacher instruction for the following subjects: dance; music; martial arts; yoga; physical fitness; horseback riding; riflery or other weapon use; sewing, knitting, or other needlecrafts; or sports.

**House Bill 2758**  
**Effective:** 6-17-11

**House Author:** Pena  
**Senate Sponsor:** Zaffirini

House Bill 2758 amends the Education Code to require each institution of higher education and private or independent institution of higher education to establish an emergency alert system to be implemented not later than the spring 2012 semester that uses e-mail or telephone notifications, in addition to any other alert method the institution considers appropriate, to provide the institution's students and staff timely notification of emergencies affecting the institution or its students and staff.

The bill requires the institution, at the time a student initially enrolls or registers for classes or a staff member begins employment, to obtain a personal phone number or e-mail address from the student or staff member to be used for emergency notification purposes and register the student or staff member in the institution's emergency alert system. The bill authorizes a student or staff member to elect, through either an electronic or written submission, not to participate in the emergency alert system, which election must be renewed at the start of each academic year.

The bill provides for the confidentiality of the personal identifying information obtained from an individual for the purpose of the emergency alert system and protects it from disclosure under the state's open records law.

**House Bill 2825**  
**Effective:** 6-17-11

**House Author:** Otto  
**Senate Sponsor:** Williams

House Bill 2825 amends the Education Code to reduce from nine to six the members of the board of directors of the nonprofit corporation under contract with the board of regents of The University of Texas System to invest funds under the control and management of the board of regents that are appointed by that board of regents, makes the chancellor of The University of Texas System an ex officio member of the corporation's board of directors rather than an appointee of the board of regents, and adds two members appointed by The Texas A&M University System board of regents. The bill requires three of the six members appointed by The University of Texas System board of regents and one of the two members appointed by The Texas A&M University System board of regents to have a substantial background and expertise in investments and requires the other three appointees of The University of Texas System board of regents to be members of that board of regents. Each appointed member of the board of directors is subject to removal and replacement by and at the pleasure of the appointing entity.

The bill removes the requirement that The University of Texas System board of regents appoint and remove all members of the corporation's board of directors and removes a provision requiring that board of regents to select one or more of the members of the corporation's board of directors from a list of candidates with the requisite qualifications submitted by The Texas A&M University System board of regents.

The bill requires the board of directors of the corporation and the board of regents of The University of Texas System to amend the corporation's bylaws as necessary to give effect to the requirements of the bill's provisions.

**House Bill 3025**  
**Effective:** 6-17-11

**House Author:** Branch et al.  
**Senate Sponsor:** Zaffirini

House Bill 3025 amends the Education Code to require 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 the end of the second regular semester or term immediately following the semester or term in which the student earned a cumulative total of 45 or more semester credit hours for course work successfully completed by the student. The bill requires such a student who begins the student's first semester or term at an institution of higher education with 45 or more semester credit hours of course credit to file a degree plan with the institution not later than the end of the student's second regular semester or term at the institution.

The bill requires an institution to inform affected students regarding the degree plan filing requirement and the students' options for consultation with an academic advisor and requires a student subject to that filing requirement to verify, at registration for a semester or term, that the student has filed a degree plan and that the courses for which the student is registering are consistent with the degree plan. The bill prohibits a student from obtaining an official transcript from the institution in which the student is enrolled until the student has filed a degree plan. The bill authorizes the Texas Higher Education Coordinating Board, in consultation with institutions of higher education, to adopt rules as necessary for the administration of these provisions.

The bill requires a general academic teaching institution, as soon as practicable after a student who transferred to the institution from or previously attended a lower-division institution of higher education meets certain criteria, to release the student's transcript to that lower-division institution, with the student's authorization, to determine whether the student has earned the credits for an associate degree awarded by the lower-division institution. The bill authorizes the lower-division institution, on review of the transcript, to award the student the degree if it is determined the student has earned the credits required for such a degree.

**Senate Bill 36**  
**Effective:** 6-17-11

**Senate Author:** Zaffirini  
**House Sponsor:** Castro

Senate Bill 36 amends the Education Code to require the Texas Higher Education Coordinating Board to establish a method for assessing the quality and effectiveness of academic advising services available to students at each institution of higher education. The bill requires the coordinating board, in establishing the method of assessment, to consult with representatives from institutions of higher education, including academic advisors and other professionals the coordinating board considers appropriate, and to establish such method, which must include the use of student surveys and identify objective, quantifiable measures for determining the quality and effectiveness of academic advising services, not later than September 1, 2012.

**Senate Bill 162**  
**Effective:** 6-17-11

**Senate Author:** Shapiro  
**House Sponsor:** Branch

Senate Bill 162 amends the Education Code to require the Texas Higher Education Coordinating Board to develop a statewide plan for the provision of developmental education for students entering public institutions of higher education who require such developmental education. The plan must assign primary responsibility for developmental education to public junior colleges, public state colleges, and public technical institutes and provide for using technology, to the greatest extent practicable consistent with best practices, to provide developmental education to students. The bill sets out requirements relating to plan development, plan content, and inclusion of certain elements in developmental education under the plan and requires the coordinating board, not later than December 1, 2012, to submit 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 a report concerning the plan's initial development, 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.

**Senate Bill 1009****Effective:** 9-1-11**Senate Author:** Huffman**House Sponsor:** Sheffield

Senate Bill 1009 amends the Education Code to require a public institution of higher education to promptly notify the federal Student and Exchange Visitor Information System (SEVIS) if a student enrolled under an F or M visa withdraws from the institution or from all courses, is dismissed by the institution for nonattendance, or is the subject of any other official administrative action as the result of nonattendance.

**Senate Bill 1020****Effective:** 6-17-11**Senate Author:** Rodriguez**House Sponsor:** Marquez

Senate Bill 1020 amends the Education Code to require the Texas Higher Education Coordinating Board, in consultation with the board of regents of the Texas Tech University System, to conduct a study to examine the need for and feasibility of establishing a dental school in El Paso as a component of the Texas Tech University Health Sciences Center. The bill requires the coordinating board, 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.

**Senate Bill 1534****Effective:** 9-1-11**Senate Author:** Shapiro**House Sponsor:** Davis, John

Senate Bill 1534 amends the Education Code to require the Texas Higher Education Coordinating Board to include within its higher education accountability system any career schools and colleges in Texas that offer degree programs and to report to the legislature regarding any of the entities that do not participate in the accountability system. The bill also excludes certain career schools or colleges from the law prohibiting a person from operating a career school or college in Texas without a certificate of approval issued by the Texas Workforce Commission and requires such a school or college to post a conspicuous notice on the home page of its website stating that it is not regulated in Texas.

**Senate Bill 1726****Effective:** 6-17-11**Senate Author:** Zaffirini**House Sponsor:** Branch

Senate Bill 1726 amends the Education Code 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 or a laboratory, practicum, or discussion section that is an intrinsic and required component of a lecture course. The bill authorizes an institution to adopt learning outcomes that are the same as or are based on those identified for that course by the institution's recognized accrediting agency. The bill requires the Texas Higher Education Coordinating Board, in consultation with institutions of higher education, to adopt any rules it considers appropriate for the administration of the bill's provisions.

## Junior Colleges

**House Bill 650**  
**Effective:** 6-17-11

**House Author:** Castro  
**Senate Sponsor:** Uresti

House Bill 650 amends the Property Code to apply provisions relating to the report, delivery, and claims process for unclaimed property presumed abandoned and valued at \$100 or less to a junior college that has opted, through a formal action taken by the junior college's governing board, to handle such property in accordance with those provisions.

**House Bill 1495**  
**Effective:** 6-17-11

**House Author:** Munoz, Jr.  
**Senate Sponsor:** Hinojosa

House Bill 1495 amends the Government Code to exempt a public junior college or junior college district from the Information Resources Management Act except as necessary for participation in the TexasOnline project and for compliance with provisions of law relating to bids or proposals for interagency contracts.

**Senate Bill 179**  
**Effective:** 6-17-11

**Senate Author:** Estes  
**House Sponsor:** Hardcastle

Senate Bill 179 amends the Education Code to add the territory within the part of the Graham Independent School District that is located in Young County to the service area of the North Central Texas College District.

**Senate Bill 419**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Patrick

Senate Bill 419 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 physical education course offered for joint high school and junior college credit. This exclusion applies beginning with funding for the 2011 fall semester.

**Senate Bill 975**  
**Effective:** 6-17-11

**Senate Author:** Hinojosa et al.  
**House Sponsor:** Munoz, Jr. et al.

Senate Bill 975 amends the Education Code to authorize 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 of age and older having graduated from high school according to certain United States Census Bureau estimates, 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, each having a dropout rate higher than 15 percent, to provide on the junior college campus a dropout recovery program for certain students to successfully complete and receive a diploma from a high school of the appropriate partnering school district. A person who is under 26 years of age is eligible to enroll in such a program if the person must complete not more than three course credits to complete the curriculum requirements for high school graduation or has failed to perform satisfactorily on an end-of-course test.

The bill establishes requirements for the design and implementation of a dropout recovery curriculum; requires the junior college 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 tests as necessary for the student to receive a diploma from a high school of the partnering school district;



and makes a dropout recovery program subject to the same requirements as a private or public community-based dropout recovery education program used by a school district to provide alternative education programs for students at risk of dropping out of school.

The bill authorizes a public junior college district to receive from each partnering school district for each student from that district enrolled in a dropout recovery program an amount negotiated between the junior college district and that partnering district within a certain limit, provides for the inclusion of a student who is enrolled in a dropout recovery program in the computation of the partnering school district's average daily attendance, makes a public junior college in a partnership eligible under certain circumstances to receive dropout prevention and intervention program funds appropriated to the Texas Education Agency, and authorizes the public junior college to receive gifts, grants, and donations to use for the bill's purposes.

The bill provides for the continued applicability of the bill's provisions to a public junior college or public school district if, after the public junior college and a school district enter into a partnership, either the county's demographics or the district's dropout rate changes and either the junior college or the school district no longer meets the partnership criteria.

**Senate Bill 1226**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Callegari et al.

Senate Bill 1226 amends the Education Code to require that a ballot in an election on a proposed annexation of territory by a junior college district state the name of the district and include in the proposition the authorization for the imposition of a property tax for junior college purposes at the current tax rate or, if that rate has not been adopted, at the tax rate for the preceding year, with the applicable tax rate also to be specified on the ballot.

## Specific Academic and State Programs

**House Bill 399**  
**Effective:** 6-17-11

**House Author:** Castro et al.  
**Senate Sponsor:** Zaffirini et al.

House Bill 399 amends the Education Code to require the Texas Higher Education Coordinating Board by rule to require a general academic teaching institution to offer training in personal financial literacy and to require such institutions to offer that training as soon as the coordinating board considers practical, but not later than the 2013 fall semester. The bill requires the coordinating board by rule to determine the topics to be covered by the training and authorizes the coordinating board by rule to provide for the training to be offered in an online course.

**House Bill 1244**  
**Effective:** 6-17-11

**House Author:** Castro  
**Senate Sponsor:** West

House Bill 1244 amends the Education Code to require the Texas Higher Education Coordinating Board to prescribe a single standard or set of standards to effectively measure, rather than reflect, an entering college student's readiness to undertake freshman-level coursework, as demonstrated by current research, for each test designated by the coordinating board for use under the Texas Success Initiative and repeals a requirement for the coordinating board to designate additional tests for use by institutions of higher education under that initiative.

The bill requires an institution that requires a student to enroll in developmental coursework to address deficiencies in the student's college readiness under the Texas Success Initiative to offer a range of developmental coursework or instructional support that includes the integration of technology to efficiently address the student's particular developmental needs and to base developmental coursework on research-based best practices that include certain specified



components. The bill requires the coordinating board to adopt rules for the implementation of the requirement that an institution base developmental coursework on research-based best practices and, in consultation with institutions of higher education, to develop and provide professional development programs to faculty and staff who provide developmental coursework to students.

House Bill 1244 requires an institution of higher education to determine when a student is ready to perform freshman-level coursework using learning outcomes developed by the coordinating board, rather than on an individual basis, and authorizes the governing board of an institution of higher education to exempt from the payment of tuition a student who is participating in an approved non-semester-length developmental education intervention.

The bill makes its provisions applicable beginning with the 2012-2013 academic year.

**House Bill 2631**

**Effective:** 6-17-11

**House Author:** Branch

**Senate Sponsor:** Zaffirini

House Bill 2631 amends the Education Code to redesignate the advanced research program established to encourage and provide support for basic research conducted by faculty members and students in certain disciplines at eligible institutions of higher education as the Norman Hackerman advanced research program. The bill removes a provision relating to the authorized level of funding to be appropriated to the program and repeals a provision requiring the comptroller of public accounts to issue warrants from funds appropriated for the program to each eligible institution in the amount certified by the Texas Higher Education Coordinating Board to the comptroller.

**House Bill 2908**

**Effective:** 9-1-11

**House Author:** Branch et al.

**Senate Sponsor:** Zaffirini

House Bill 2908 amends the Education Code to require the Texas Higher Education Coordinating Board to include in its five-year master plan an assessment of the adequacy of opportunities for graduates of medical schools in this state to enter graduate medical education in this state. The bill requires the assessment to compare the number of first-year graduate medical education positions or residencies available annually relative to the number of medical school graduates; include a statistical analysis of recent trends and projections; develop methods and strategies for achieving a specified ratio of residency positions to the number of medical school graduates in Texas; evaluate current and projected physician workforce needs of this state in the development of additional residency positions; and examine whether this state should ensure that a residency position is created in Texas for each new medical student position established by a medical and dental unit.

**House Bill 3470**

**Effective:** 6-17-11

**House Author:** Patrick et al.

**Senate Sponsor:** Ogden et al.

House Bill 3470 amends provisions of the Education Code relating to the Texas Armed Services Scholarship Program. The bill removes language limiting eligibility for an initial scholarship to students enrolled as freshmen, increases from five to six the number of years within which a student is required to graduate as a condition of eligibility under a scholarship agreement, and extends scholarship eligibility to include students who agree to enter into a four-year commitment to be a member of the Texas State Guard, United States Coast Guard, or United States Merchant Marine.

Previous law required the Texas Higher Education Coordinating Board by rule to provide for any amount paid to a student by a branch of the United States armed services during an academic year to be deducted from the amount of the scholarship awarded to the student for that academic year. House Bill 3470 removes that requirement and instead requires a scholarship to be reduced

for an academic year by the amount by which the full amount of the scholarship plus the total amount to be paid to the student for being under contract with one of the branches of the United States armed services exceeds the student's total cost of attendance for that academic year at the institution of higher education in which the student is enrolled. The bill requires the coordinating board to adopt rules for the administration of the Texas Armed Services Scholarship Program as amended by the bill's provisions.

## Specific Institutions

### **Senate Bill 324**

**Effective:** 6-17-11

**Senate Author:** Jackson

**House Sponsor:** Davis, John

Under previous law, the University of Houston—Clear Lake was limited to offering only junior, senior, and graduate-level programs. Senate Bill 324 amends the Education Code to require the university to offer undergraduate and graduate programs without the previous limitation. The bill removes a provision relating to the concurrent enrollment of certain students at both the University of Houston—Clear Lake and another institution of higher education.

### **Senate Bill 386**

**Effective:** 4-29-11

**Senate Author:** Williams

**House Sponsor:** Harless

Senate Bill 386 amends the Education Code to rename the North Harris Montgomery Community College District as the Lone Star College System District.

### **Senate Bill 489**

**Effective:** 6-17-11

**Senate Author:** Fraser et al.

**House Sponsor:** King, Susan

Senate Bill 489 amends the Education Code to clarify that the Texas State Technical College System is composed of a system office and multiple campuses, including 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, whereas previous law treated the Sweetwater site as a single campus, the Brownwood and Abilene sites as extension centers without a specified administering campus, and the Breckenridge site as an extension program.

### **Senate Bill 633**

**Effective:** 6-17-11

**Senate Author:** Hinojosa

**House Sponsor:** Hunter

Senate Bill 633 amends the Education Code to designate Texas A&M University—Corpus Christi as a general academic teaching institution, rather than a coeducational educational institution.

### **Senate Bill 1121**

**Effective:** 5-28-11

**Senate Author:** Estes

**House Sponsor:** Lyne

Senate Bill 1121 amends the Education Code to authorize the Board of Regents of Midwestern State University to increase the amount of the university center fee for a semester or summer session in excess of the amount otherwise limited by law if the increase is approved by a majority vote of those students participating in a general election called for that purpose. The bill prohibits the increased amount from being charged after the fifth academic year in which the increased amount is first charged unless, before the end of that academic year, the institution has issued bonds payable from the fee, in which event the increased amount is prohibited from

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being charged after the academic year in which all bonds, including refunding bonds for those bonds, have been fully paid.

**Senate Bill 1272**  
**Effective:** 5-19-11

**Senate Author:** Eltife  
**House Sponsor:** Lavender

Under previous law, a resident of a neighboring state who enrolled in a public upper-level institution of higher education located in a county adjacent to the nonresident student's home state was exempt from the requirement to pay the nonresident tuition fee prescribed for nonresident students and instead was allowed to pay in-state tuition and fees. When that legislation was enacted, Texas A&M University—Texarkana was the only public upper-level institution to which that law applied. Since then, however, the legislature authorized the university to offer lower-division courses, which the university began offering in the fall of 2010, making the nonresident tuition exemption no longer applicable to otherwise eligible nonresident students at the university. Senate Bill 1272 amends the Education Code to update the nonresident tuition fee exemption at a public upper-level institution to reflect the downward expansion at Texas A&M University—Texarkana. The bill requires the Texas Higher Education Coordinating Board, in the formula applicable to Texas A&M University—Texarkana for funding instruction and operations, to include any semester credit hours taught through distance education to students enrolled at that university who reside in another state and pay tuition at the rate charged to Texas residents and reside in a county in the other state that is contiguous to the county in which the university is located.

**Senate Bill 1662**  
**Effective:** 6-17-11

**Senate Author:** West et al.  
**House Sponsor:** Turner

Senate Bill 1662 amends the Government Code to authorize funds appropriated for 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 and Research Apprentice Program and the Prairie View A&M Undergraduate Medical Academy, including participant and employee travel expenses and related expenses.

**Senate Bill 1909**  
**Effective:** 6-17-11

**Senate Author:** Lucio  
**House Sponsor:** Oliveira

Previous law authorized The University of Texas at Brownsville to enter into a partnership agreement with the Southmost Union Junior College District specifically to offer a lower-division, occupational, or technical course that was not offered at the university. Senate Bill 1909 amends the Education Code to authorize the university to enter into any agreement with the Texas Southmost College District, formerly known as the Southmost Union Junior 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 the university, including an agreement to facilitate the transfer of course credit and to align courses between the university and the college. The bill authorizes The University of Texas System board of regents and the college district's board of trustees to contract with each other for the use of facilities on the Southmost College campus committed by the district's board of trustees.

Senate Bill 1909 expands the role and scope of The University of Texas at Brownsville by authorizing the university system's board of regents to prescribe courses leading to customary degrees offered at leading American universities and to award those degrees, with the institution of a department, school, or degree program at the university being subject to prior approval of the Texas Higher Education Coordinating Board, and by repealing Education Code provisions limiting the university's course offerings to upper-division and graduate courses

with certain exceptions for the restricted offering of lower-division courses; provisions relating to lower-division admissions; and provisions relating to the application of the formula for upper-level institutions to the upper-division semester credit hours at the university.

The bill requires the university and the district to cooperate to ensure that each institution timely achieves separate accreditation from a recognized accrediting agency before the termination of the existing partnership agreement and to continue a partnership agreement in effect until August 31, 2015, to the extent necessary to ensure accreditation. The bill authorizes the university and district to extend or renew the existing partnership agreement, agree to its earlier termination, or execute a new agreement as necessary to ensure accreditation. The bill requires the university and 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.

## Student Financial Aid

**House Bill 2907**  
**Effective:** 6-17-11

**House Author:** Branch  
**Senate Sponsor:** Carona

House Bill 2907 amends the Education Code to specify, in various provisions setting out the eligibility requirements for a tuition equalization grant, that a person's status as a Texas resident is as defined under provisions relating to tuition rates, rather than as defined by the Texas Higher Education Coordinating Board, and to limit the requirement that the person not be a recipient of any form of athletic scholarship to the period while the person is receiving a grant.

House Bill 2907 clarifies that the requirement to complete a certain number of semester credit hours for a person to continue receiving a tuition equalization grant after qualifying for such a grant applies as of the end of each subsequent academic year in which the person receives such a grant and adds the further requirement that the person have completed at least 75 percent of the semester credit hours attempted in the person's most recent full academic year. The bill transfers the obligation to certify the amount of a tuition equalization grant for an undergraduate student who establishes exceptional financial need from the coordinating board to the institution of higher education at which the student is enrolled and establishes that certification is required on determination of a person's financial need rather than on receipt of a certification of the amount of financial need from an approved institution.

The bill specifies that the annual report in which the coordinating board is required to include certain grant recipient information is the annual report to the legislature on financial aid in the state.

**House Bill 2911**  
**Effective:** 6-17-11

**House Author:** Branch  
**Senate Sponsor:** Patrick

House Bill 2911 amends the Education Code to authorize a higher education loan authority to purchase or make alternative education loans and guaranteed student loans in addition to loans guaranteed by the Texas Guaranteed Student Loan Corporation. The bill authorizes a higher education loan authority, on approval of the city or cities that created the authority, to issue revenue bonds or otherwise borrow money to finance the purchase or issuance of such alternative education loans, which bonds must be payable from and secured by a pledge of revenues derived from or by reason of the ownership of the alternative education loans and investment income after the deduction of loan program operating expenses. The bill authorizes an alternative education loan to be made on behalf of a qualified alternative education loan lender, in addition to being made by a qualified alternative education loan lender.

The bill amends the Government Code to revise the priorities for reservations of the portion of the state ceiling on tax-exempt private activity bonds that is available for reservation by issuers of qualified student loan bonds. The bill entitles each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements for a program year to receive a student loan bond allocation for that year. The bill redefines such student loan bond allocation to mean the total amount of the allocation for such private activity bonds for a program year divided by the number of qualified nonprofit corporation applicants that comply with all applicable application requirements for that year and removes the need-based provisions relating to the previous entitlement of a floor allocation for such a nonprofit corporation and related contingency provisions for when the total amount to be allocated is less than the sum of the floor allocations for all applicants.

**House Bill 2999**

**Effective:** 6-17-11

**House Author:** Lewis

**Senate Sponsor:** Zaffirini

House Bill 2999 amends the Education Code to authorize 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. The bill establishes parameters for the tuition to be charged to a participating student in such a program during a period of at least 24 months after the student's initial enrollment in the general academic teaching institution and requires an institution that develops such a program to prescribe eligibility requirements for participation and to notify applicants for transfer admission from lower-division institutions of higher education regarding the program.

**House Bill 3577**

**Effective:** 6-17-11

**House Author:** Gonzales, Larry

**Senate Sponsor:** Zaffirini

Previous law prohibited a person from receiving a Texas Educational Opportunity Grant if the person was eligible for a TEXAS grant. House Bill 3577 amends the Education Code to prohibit 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. The bill entitles a person who would be awarded both grants, if not for this prohibition, to receive only the grant of the greater amount.

**House Bill 3578**

**Effective:** 6-17-11

**House Author:** Gonzales, Larry

**Senate Sponsor:** Zaffirini

House Bill 3578 amends the Education Code to increase the maximum amount of an emergency loan made to a student by an institution of higher education to an amount sufficient to cover the cost of textbooks for the courses in which the student is actually enrolling, in addition to covering the tuition and mandatory fees for such courses.

**House Bill 3579**

**Effective:** 6-17-11

**House Author:** Gonzales, Larry

**Senate Sponsor:** Zaffirini

House Bill 3579 repeals a provision of the Education Code limiting the application of a repayment of certain physician education loans with assistance funding provided by the Texas Higher Education Coordinating Board to the principal amount of the loan.



**Senate Bill 28**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini et al.  
**House Sponsor:** Branch et al.

Senate Bill 28 amends the Education Code to enact the TEXAS Grant College Readiness Reform Act and establish criteria both for the Texas Higher Education Coordinating Board's annual allocation and distribution of money available for TEXAS grants among eligible institutions of higher education and for prioritizing the award of grants to eligible individuals.

Previous law required the coordinating board and the eligible institution to give highest priority to awarding TEXAS grants to students who demonstrated the greatest financial need. Senate Bill 28 instead requires the coordinating board and the eligible institutions to give priority 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 that a full-time resident student in a bachelor's degree program would be charged at a general academic teaching institution. In addition to giving such priority, the bill requires each general academic teaching institution, beginning with grants awarded for the 2013-2014 academic year, to give highest priority to students who graduate from a public or accredited private school in Texas on or after May 1, 2013; who have completed the recommended high school program or its equivalent; and who have attained certain measures of academic success relating to test scores, class rank, grade point average, high school course credits, or college credit hours earned in dual credit courses. The bill requires a general academic teaching institution, if there is money available above the amount required to award an initial TEXAS grant to all students meeting those criteria, to make awards to other students who meet the specified secondary criteria, provided that the institution continues to give priority to students based on greatest financial need and expected family contribution.

Senate Bill 28 sets out initial eligibility requirements for a TEXAS grant for a person graduating from high school on or after May 1, 2013, and enrolling in a general academic teaching institution and sets out criteria for determining whether an associate degree candidate who has not completed that degree, or whose final college transcript is unavailable, has satisfied the associate degree requirement for such a student's initial eligibility for a TEXAS grant.

Senate Bill 28 specifies that a person who was eligible to receive an initial TEXAS grant in an academic year for which sufficient money was not available for the coordinating board to award initial TEXAS grants to at least 10 percent of the persons eligible for initial grants in that year, has not previously been awarded a TEXAS grant, has not received a bachelor's degree, and meets the continuing eligibility and academic performance requirements 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 that year. The bill specifies that such a person is entitled to the highest priority if the person was entitled to that priority when the person first established eligibility for an initial grant, may receive subsequent TEXAS grants, and is not entitled to TEXAS grants for any previously completed academic year.

Senate Bill 28 requires the coordinating board, not later than September 1 of each year, to report to the Legislative Oversight Committee on the TEXAS grant program and Teach for Texas grant program regarding the operation of the TEXAS grant program, including certain information from the three preceding state fiscal years.

**Senate Bill 40**  
**Effective:** Vetoed

**Senate Author:** Zaffirini  
**House Sponsor:** Callegari

Senate Bill 40 amends Education Code provisions governing the Texas Guaranteed Student Loan Corporation to reset its scheduled abolishment under the Texas Sunset Act from September 1, 2017, to September 1, 2013; expand the corporation's purpose; broaden the corporation's authority to participate in revenue-sharing activities; and add or revise certain across-the-board



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provisions. The bill clarifies and expands the corporation's purpose to include administering student financial aid programs and other student loan programs, in addition to the guaranteed student loan program, for qualified students across the nation as well as in Texas; assisting institutions of higher education by providing necessary and desirable services related to financial aid and student loan programs; and participating in revenue-generating activities related to higher education student financial aid and student loan programs to the extent the activities support the corporation's primary purposes.

Senate Bill 40 makes the corporation subject to the state's open records law, increases the membership of its board of directors by requiring the appointment of an additional faculty member or administrator from a postsecondary educational institution that is an eligible institution for purposes of federal law, expands conflict-of-interest provisions rendering a person ineligible for board membership, and authorizes the board or a board committee to hold a meeting by telephone conference call under certain conditions.

Senate Bill 40 clarifies the corporation's authority to participate in a revenue-generating activity by specifying a broad range of federal, state, and other entities with which the corporation may enter into contracts and by specifying certain services the corporation may perform if authorized by its board of directors to do so but conditions that authority on the revenue from the activity enabling the corporation to support educational purposes and the specified services being in relation to higher education loans. The bill requires the corporation to submit a biennial written report to the legislature and the Legislative Budget Board regarding the corporation's participation in revenue-generating activities.

Senate Bill 40 removes a provision requiring the corporation to guarantee loans made to eligible borrowers by eligible lenders as provided by the federal guaranteed student loan program and instead requires the corporation to serve as the designated guarantee agency under the Federal Family Education Loan Program in accordance with federal law. The bill removes a requirement for the corporation to establish two advisory committees representing participating postsecondary educational institutions and participating lenders, respectively, and instead requires the corporation to establish advisory committees as the board considers appropriate.

Senate Bill 40 revises provisions relating to suits on student loan defaults, loan default prevention and reduction, the cooperation of state agencies and subdivisions in providing information concerning student financial aid, and discrimination in making a student loan or loan guarantee. The bill requires the corporation to maintain a federal fund and operating fund in accordance with certain federal law, rather than reserve and operating funds, and requires a periodic review of the corporation's activities consistent with the state auditor's audit plan.

Senate Bill 40 repeals Education Code provisions relating to the comptroller's or the comptroller's designee's membership on the board; the board's delegation of powers to the president and corporation employees; the policy statement filed with the governor's office; the conditions under which the corporation is required to make student loans as a lender of last resort; reinsurance against loss under the loan program; insurance premiums imposed and collected by the corporation; eligibility requirements for borrowers, lenders, and institutions; and the calculation of loan default rates by the corporation and other provisions relating to such rates.

Reason Given for Veto: "Senate Bill 40 would make a number of changes to the enabling statute of the Texas Guaranteed Student Loan Corporation (TGSLC), a state-chartered nonprofit corporation that serves as the guarantor for subsidized student loans originated under the Federal Family Education Loan Program (FFELP). FFELP was terminated last year by the federal government.

"Many of the changes in Senate Bill 40, such as allowing TGSLC board members to attend meetings via teleconference or requiring [TGSLC] to appoint an ombudsman for internal complaints, are good for TGSLC and the state. However, their benefits are outweighed by other parts of the bill.

“Senate Bill 40 gives TGSLC much broader authority to enter into revenue-generating activities, but does so at a time when TGSLC loan portfolio will shrink, limiting the resources available for new ventures and exposing TGSLC’s operating fund to additional risk.

“TGSLC also faces uncertainty at the federal level. TGSLC is a strong guarantor, but it would be unwise to commit scarce resources without additional clarity as to future policies regarding guarantors and the residual FFELP portfolio.

“Senate Bill 40 also contains language regarding the governor’s appointments to TGSLC that conflicts with TGSLC language in other bills that are moving toward passage in the special session.”

**Senate Bill 176**  
**Effective:** 6-17-11

**Senate Author:** Huffman  
**House Sponsor:** Branch

Under current law, a student is eligible for a rebate of a portion of the undergraduate tuition the student has paid if the student receives a bachelor’s degree within a specified period and has attempted no more than three hours in excess of the minimum number of semester credit hours required to complete the degree program. That law specifies the types of credit that are to be included or excluded in the computation of the number of hours the student has attempted for purposes of determining the student’s eligibility for such a tuition rebate. Senate Bill 176 amends the Education Code to exclude course credit, other than course credit earned exclusively by examination, that is earned before graduating from high school from the computation of the number of hours attempted for purposes of determining a student’s eligibility for a tuition rebate.

**Senate Bill 639**  
**Effective:** 6-17-11

**Senate Author:** Van de Putte et al.  
**House Sponsor:** Branch

Senate Bill 639 amends the Education Code to require current residence in Texas as an additional condition under which certain military veterans and their spouses and dependents are exempt from the payment of tuition, dues, certain fees, and other required charges at an institution of higher education and provides for the continued eligibility of a person who received such a tuition exemption before the 2011-2012 academic year under the terms of the exemption as it existed on January 1, 2011, other than the residency requirement. The bill adds a requirement for the submission of an application for the exemption, in addition to the submission of satisfactory evidence that the applicant qualifies for the exemption, and sets a deadline for the submission of the application and satisfactory evidence.

Senate Bill 639 requires the Texas Higher Education Coordinating Board by rule to prescribe procedures to allow, following the death of a person who becomes eligible for a tuition exemption, the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person’s spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify independently for an exemption.

The bill provides a tuition exemption for a dependent child of a member of the armed forces of the United States who is a Texas resident or is entitled to pay resident tuition for any semester or other academic term during which the member is deployed on active duty in a combat operation outside the United States, establishes a requirement for the submission of satisfactory evidence that an applicant qualifies for the exemption, and prohibits a person from receiving the exemption for more than a cumulative total of 150 semester credit hours and from receiving the exemption if the person is in default on a student loan made or guaranteed by the State of Texas. The bill prohibits an institution from considering the person’s eligibility for the exemption in determining whether to admit the person to any certificate or degree program. The bill requires the legislature, based on availability, to provide sufficient money in its appropriations to institutions of higher education to cover the full costs of the exemptions and, if sufficient money is not available, requires the coordinating board to prorate the available funding to each institution in proportion

## Higher Education

to the total amount the institution would otherwise be entitled to receive. The bill requires an institution to grant such an exemption only to the extent money is available for that purpose.

**Senate Bill 777**  
**Effective:** 5-9-11

**Senate Author:** Williams  
**House Sponsor:** Otto

The scholarship fund account for fifth-year accounting students, which had been a dedicated account in the general revenue fund administered by the Texas Higher Education Coordinating Board, was redesignated in 2009 as a scholarship trust fund for such accounting students to be held by the Texas State Board of Public Accountancy outside the state treasury. However, the funds consolidation bill enacted by the 81st Legislature negated the fund's creation as a trust fund and instead created it as a dedicated account in the general revenue fund as before. Senate Bill 777 amends the Occupations Code to re-create the scholarship trust fund for fifth-year accounting students as a trust fund held outside the state treasury by the Texas State Board of Public Accountancy 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, before its negation by the funds consolidation bill.

**Senate Bill 794**  
**Effective:** 6-17-11

**Senate Author:** Nelson et al.  
**House Sponsor:** King, Susan et al.

Senate Bill 794 amends the Education Code to extend from September 1, 2011, to September 1, 2015, the expiration date for the award by the Texas Higher Education Coordinating Board of grants provided from the investment returns of the permanent fund for higher education nursing, allied health, and other health-related programs to 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.

**Senate Bill 851**  
**Effective:** 1-1-13

**Senate Author:** Zaffirini  
**House Sponsor:** Branch

Senate Bill 851 amends the Education Code to require the Texas Higher Education Coordinating Board by rule to provide for a uniform priority application deadline for financial aid applications at public institutions of higher education other than public junior colleges. The bill requires otherwise eligible applicants who apply on or before the deadline to be given priority consideration for financial aid.

**Senate Bill 1799**  
**Effective:** See below

**Senate Author:** West  
**House Sponsor:** Branch et al.

Senate Bill 1799 amends the Education Code to provide the Texas Higher Education Coordinating Board, or its successors, ongoing bonding authority in administering the state's higher education student loan program. While previous bond authorizations limited the total amount of bonds issued under each authorization, the bill authorizes the coordinating board to issue and sell general obligation bonds for the purpose of financing student loans as long as the principal amount of outstanding bonds at all times does not exceed the aggregate principal amount of state general obligation bonds previously authorized for that purpose by any other provision or former provision of the Texas Constitution. The bill raises the cap on the total amount of bonds issued by the coordinating board in a state fiscal year from \$125 million to \$350 million. The bill takes effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 50, which would authorize the legislature to increase the coordinating board's bonding authority by statute without need for a constitutional amendment and voter approval for the additional bonding authority.

**Senate Joint Resolution 50**

**For Election:** 11-8-11

**Senate Author:** West

**House Sponsor:** Branch et al.

Senate Joint Resolution 50 proposes an amendment to the state constitution to authorize the legislature, by general law, to provide ongoing bonding authority for the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the state for the purpose of financing educational loans to students as long as the principal amount of the outstanding bonds issued does not exceed the aggregate principal amount of the state general obligation bonds previously authorized for that purpose by any other provision or former provision of the constitution.

**The summaries for the following bills are in the listed chapters:**

House Bill 452 - Family Law

House Bill 1163 - Public Officials and Employees

House Bill 2909 - Public Education

Senate Bill 149 - Public Education

Senate Bill 602 - Open Government and Privacy

Senate Bill 1107 - Health and Safety

Senate Bill 1410 - Public Education

Senate Bill 1620 - Public Education

Senate Bill 1736 - Military Forces and Veterans





## Human Services

This chapter covers legislation on issues relating to financial, medical, and other services for individuals who are poor, elderly, or physically or mentally disabled. The chapter includes legislation on health and human services agencies, nursing homes, assisted living facilities, adult day care and child care, Medicaid, CHIP, indigent health care, and the financing and administration of related health and human services programs. Legislation relating to Medicaid fraud is in the **Criminal Justice** chapter, and legislation relating to adoption and foster care, domestic abuse, and child protective services is in the **Family Law** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 710****Effective:** 6-17-11**House Author:** Walle et al.**Senate Sponsor:** Deuell

House Bill 710 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to use appropriate technology to confirm the identity of applicants for benefits under the Temporary Assistance for Needy Families (TANF) program and the supplemental nutrition assistance program and to prevent duplicate participation in those programs by a person. The bill repeals a requirement that HHSC develop a program to prevent welfare fraud by using a type of electronic fingerprint-imaging or photo-imaging of adult and teen parent applicants for and adult and teen parent recipients of TANF or food stamp benefits.

**House Bill 841****Effective:** 5-21-11**House Author:** Gonzalez**Senate Sponsor:** Harris

House Bill 841 amends the Family Code to update provisions relating to notice of abortion, the admissibility of a child's statement under the juvenile justice code, protective orders, definitions applicable to a suit affecting the parent-child relationship, and standing to file a suit affecting the parent-child relationship by replacing references to the Department of Protective and Regulatory Services with the Department of Family and Protective Services.

**House Bill 1481****Effective:** 9-1-11**House Author:** Truitt et al.**Senate Sponsor:** Zaffirini

House Bill 1481 amends the Government Code and Education Code to establish provisions relating to the person first respectful language initiative. The bill directs the legislature and the Texas Legislative Council to avoid using specified terms and phrases in reference to certain persons with disabilities in any new statute or resolution and, when enacting or revising statutes or resolutions, to replace those terms with preferred phrases that reflect person first respectful language. The bill requires the Sunset Advisory Commission to consider and make recommendations regarding statutory revisions relating to the initiative and establishes provisions requiring the executive commissioner of the Health and Human Services Commission and the commissioner of education to ensure that applicable agencies use terms and phrases preferred under the initiative when proposing, adopting, or amending agency rules and certain materials and publications. The bill amends the Health and Safety Code to define certain terms under the Persons with Mental Retardation Act in accordance with the initiative.

**House Bill 1930**  
**Effective:** 6-17-11

**House Author:** Zedler  
**Senate Sponsor:** Van de Putte

House Bill 1930 amends the Government Code to include the commissioner of the Department of State Health Services or the commissioner's designee as a member of the human trafficking prevention task force. The bill includes among the task force's duties examining the extent to which human trafficking is associated with the operation of sexually oriented businesses and the workplace or public health concerns that are created by that association.

**House Bill 1965**  
**Effective:** 6-17-11

**House Author:** Kolkhorst et al.  
**Senate Sponsor:** Deuell

House Bill 1965 amends Government Code provisions relating to faith- and community-based health and human services initiatives to expand the agencies required to have a liaison for faith- and community-based organizations to include the office of the governor, the Department of Public Safety, the Texas Department of Insurance, the Public Utility Commission of Texas, the office of the attorney general, the Department of Agriculture, the office of the comptroller of public accounts, the Department of Information Resources, the Office of State-Federal Relations, the office of the secretary of state, and certain institutions of higher education. The bill provides for the administrative support, presiding officer, and reporting requirements of the interagency coordinating group for faith- and community-based initiatives, which is composed of such liaisons.

House Bill 1965 establishes the interagency coordinating group task force to help direct the interagency coordinating group in carrying out certain duties and provides for the task force's administrative support and duties, including preparing a legislative report. Provisions relating to the task force expire September 1, 2013.

**House Bill 2610**  
**Effective:** 9-1-11

**House Author:** Guillen et al.  
**Senate Sponsor:** Deuell

House Bill 2610 amends the Government Code to require the Health and Human Services Commission (HHSC), after a certain determination by the executive commissioner of HHSC, to establish a statewide community-based navigator program through which HHSC will train and certify as navigators volunteers and representatives of faith- and community-based organizations to assist individuals applying online for public assistance benefits through the Texas Integrated Eligibility Redesign System or other related electronic eligibility system. The bill requires the executive commissioner to adopt certain program standards and requires HHSC to develop and administer a training program for navigators that includes certain specified training and to maintain and publish an online list of certified navigators.

House Bill 2610 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to establish a statewide Promotora and Community Health Worker Training and Certification Advisory Committee to advise DSHS and HHSC on certain matters relating to the training, regulation, employment, and funding of promotoras and community health workers. The bill requires DSHS, in coordination with HHSC, to study matters relating to employing promotoras and community health workers to provide certain health care services and to develop recommendations for increasing employment of and access to promotoras and community health workers and expanding funding and reimbursement for the provision of such services. DSHS is required to report the findings of the study to the legislature on or before December 1, 2012, and the advisory committee expires December 31, 2012.

**House Bill 2651**  
**Effective:** 9-1-11

**House Author:** Allen et al.  
**Senate Sponsor:** Ellis

House Bill 2651 amends the Transportation Code to impose a deadline by which a provider of public transportation services designed for people with disabilities must determine if a person who resides outside the provider's service area but who is visiting within the service area is eligible to use the services. The deadline is set at not later than two business days after the date the visitor gives notice and submits the required documentation.

**House Bill 2819**  
**Effective:** 9-1-11

**House Author:** King, Susan et al.  
**Senate Sponsor:** Nelson

House Bill 2819 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to develop certain procedures to ensure that assistance regarding eligibility requirements for the supplemental nutrition assistance program (SNAP) and other program-related information are provided to program applicants and prospective applicants and to consider the feasibility and cost-effectiveness of using office personnel or an automated system to contact an applicant to remind the applicant of a scheduled interview and documentation required for the interview. The bill requires HHSC to consider the use of document scanning technology and a risk scoring program to promote efficiency and fraud detection and streamline the eligibility determination process and establishes methods that HHSC must use to improve its management of SNAP eligibility determination staff. The bill 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 periodically be collected and to implement a process for collecting data on the identified performance indicators. The bill requires HHSC to provide periodic management reports generated by the automated eligibility system to eligibility determination offices and to use the data collected and the reports to develop and assess strategies to streamline and improve the eligibility determination process.

**House Bill 2903**  
**Effective:** 9-1-11

**House Author:** Zerwas et al.  
**Senate Sponsor:** Deuell

House Bill 2903 amends Human Resources Code provisions relating to the program of all-inclusive care for the elderly (PACE). The bill revises the roles of the Health and Human Services Commission (HHSC), the executive commissioner of HHSC, and the Department of Aging and Disability Services (DADS) in implementing the program and in developing and implementing a coordinated plan to promote PACE program sites. The bill requires HHSC to consider the PACE program as a community-based service option under any "Money Follows the Person" demonstration project or other similar initiative, authorizes a PACE program site to coordinate with certain entities to obtain a discount on prescription drug prices, and requires HHSC to adopt a standard reimbursement methodology for the payment of all PACE organizations. The bill requires DADS to establish a PACE program team, sets out the team's responsibilities, and requires the team to conduct a study to evaluate the feasibility of implementing a statewide standard reimbursement rate for all PACE organizations and submit a written report containing its findings and recommendations to HHSC not later than September 1, 2012.

**Senate Bill 71**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Raymond

Senate Bill 71 amends and repeals provisions of the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Occupations Code to eliminate or reduce the frequency of certain health and human services reports and analyses conducted by health and human services agencies.

**Senate Bill 77**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Raymond

Senate Bill 77 amends the Government Code to entitle the Texas Department of Agriculture (TDA) to obtain certain criminal history record information that relates to a person who is a principal of a nongovernmental entity participating in the federal Child and Adult Care Food Program. The bill amends the Human Resources Code to establish participant requirements for a sponsoring organization in the Child and Adult Care Food Program, including requirements to maintain a performance bond and to submit certain information to TDA for purposes of background and criminal history checks. The bill sets out TDA duties in conducting a background and criminal history check and requires the commissioner of agriculture to adopt procedures for an entity to appeal a TDA determination relating to a background and criminal history check.

**Senate Bill 78**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Laubenberg

Senate Bill 78 amends the Government Code to require a health and human services agency that regulates certain entities, facilities, and agencies to maintain, for a specified period of time, a record of each application for a license, a listing, or a registration that is denied, revoked, suspended, or terminated by the agency and to provide copies of the required records to each other health and human services agency that also regulates the applicable entity, facility, or agency. The bill specifies the information required to be included in the record and authorizes a health and human services agency to deny an application for a license, listing, or registration based on that information. The bill requires an applicant submitting an initial or renewal application for a license, listing, or registration to include with the application a written statement containing the name of any controlling persons of the entity for which the license, listing, or registration is sought.

**Senate Bill 221**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Gonzalez

Senate Bill 221 amends provisions of the Finance Code, Government Code, Health and Safety Code, and Human Resources Code relating to the Department of Family and Protective Services (DFPS) and investigations of alleged abuse, neglect, or exploitation of certain elderly or disabled persons. The bill revises provisions relating to compelled discovery of customer records of a financial institution arising out of such an investigation by a government agency and criminal history record information obtained by DFPS from a state or federal law enforcement agency and the release of that information. The bill clarifies notification requirements for an adult protective services investigator and a DFPS caseworker who determine that abuse, neglect, or exploitation suffered by an elderly or disabled person may have resulted from criminal conduct. The bill redefines “abuse,” “exploitation,” and “neglect” for purposes of provisions relating to a home and community support services license; redefines “exploitation” and “protective services”; and authorizes the executive commissioner of the Health and Human Services Commission, by rule, to adopt alternative definitions of “abuse,” “neglect,” and “exploitation.”

Senate Bill 221 changes the community satisfaction survey soliciting information regarding DFPS performance with respect to investigative and adult protective services from an annual survey to a biennial survey and increases from a Class B misdemeanor to a Class A misdemeanor the penalty for knowingly or intentionally reporting information relating to a report of abuse, neglect, or exploitation of an elderly or disabled person that the person knows is false or lacks factual foundation. The bill includes provisions relating to continuing an investigation of a report of abuse, neglect, or exploitation of an elderly or disabled person without interviewing the person; access to certain records and documents for purposes of investigations and protective

services for elderly and disabled persons; furnishing protective services to a relative or caretaker of an elderly or disabled person; the expiration or extension of an emergency order authorizing protective services for an elderly or disabled person; and notification by DFPS to the appropriate law enforcement agency of the removal of an elderly or disabled person that results in a vacant residence. The bill requires DFPS to designate an administrative law judge, rather than a hearings examiner, to conduct a hearing regarding employee misconduct during an investigation of a report of abuse, neglect, or exploitation of an elderly or disabled person and repeals a provision relating to certain actions of the DFPS commissioner based on such a hearing.

**Senate Bill 436**  
**Effective:** 6-17-11

**Senate Author:** Nelson  
**House Sponsor:** Naishtat

Senate Bill 436 amends the Local Government Code to authorize a county health officer or official designated by the commissioners court of a county with a population of 700,000 or more 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.

**Senate Bill 501**  
**Effective:** 5-21-11

**Senate Author:** West  
**House Sponsor:** Dukes

Senate Bill 501 amends the Human Resources Code to create the Interagency Council for Addressing Disproportionality to examine issues and make recommendations relating to the disproportionality of children who are members of a racial or ethnic minority group in the juvenile justice, child welfare, health, and mental health systems and the disproportionality of the delivery of certain services in the education system. The bill sets out provisions relating to the council's composition, member requirements, and the administration of the council. The bill specifies council duties and requires the council to prepare and submit a report, not later than December 1, 2012, to the lieutenant governor, the speaker of the house of representatives, and the legislature containing the council's findings and recommendations, including a recommendation as to whether to continue the council. The bill amends the Health and Safety Code to remove references in provisions relating to an office for the elimination of health disparities within the Health and Human Services Commission to instead refer to a center for elimination of disproportionality and disparities and repeals a chapter relating to the health disparities task force.

**Senate Bill 717**  
**Effective:** 9-1-11

**Senate Author:** Harris et al.  
**House Sponsor:** Truitt et al.

Senate Bill 717 amends the Government Code to include in the purposes of the Council on Children and Families the promotion of the sharing of information regarding children and their families among state agencies and to include in the council's duties the identification of 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.

**Senate Bill 1178**  
**Effective:** See below

**Senate Author:** Nelson  
**House Sponsor:** Raymond

Senate Bill 1178 amends provisions of the Human Resources Code relating to the regulation of certain shelter day-care facilities, child-care facilities, and individuals providing child-care services and relating to access to certain criminal history record information. The bill authorizes certain municipalities that operate an elementary-age recreation program to, in lieu of an annual public hearing relating to the adoption of standards of care by ordinance, accept public comment through the municipality's Internet website. The bill requires the Department of Family and Protective Services (DFPS) to investigate a listed family home if DFPS receives a complaint that



alleges an immediate risk of danger to the health or safety of a child being cared for in the home and authorizes DFPS to investigate a family home to ensure that the home is providing care for compensation to not more than three children. The bill requires DFPS to notify the operator of a listed home of an investigation and to report the results of an investigation to the operator. The bill establishes suspension and revocation requirements for DFPS if an operator fails to submit certain information for a background and criminal history check or if a facility, agency, or home fails to pay the required annual fee within a certain time frame. The bill requires 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 certain persons and establishes background and criminal history check requirements for a substitute employee provided by a person who contracts to provide substitute employees to a child-care facility or family home. The bill prohibits a person from being a controlling person in a child-care facility or family home under certain circumstances relating to eligibility for and revocation or denial of a license, listing, registration, or certification and removes the authorization for a person to continue to operate a child-care facility or family home during an appeal of a license, listing, or registration denial. The bill authorizes DFPS to refuse to issue a listing or registration to certain persons in relation to a child-care facility or family home, rather than a residential-care facility, and authorizes DFPS to impose an administrative penalty against a listed facility or family home that commits certain violations of law. The bill, effective September 1, 2012, establishes provisions for the regulation of temporary shelter day-care facilities, including provisions relating to permit requirements; inspection and background and criminal history checks; the conversion of a license to operate a child-care facility to a permit to operate a shelter day-care facility; caregiver qualifications and training; child-to-caregiver ratio requirements; reporting requirements for incidents and violations; the authority of DFPS to conduct limited inspections of facilities; and the suspension, denial, or revocation of a permit. The bill authorizes DFPS to deny, revoke, suspend, or refuse to renew a child-care or child-placing agency administrator license or place on probation or reprimand a license holder for having a criminal history relevant to the duties of a licensed child-care or child-placing administrator and amends the Government Code to specify the conditions under which a person, agency, department, political subdivision, or other entity entitled to access the state and national criminal history record information of a person is not required to collect or submit the person's fingerprints. The bill, effective September 1, 2012, repeals provisions of the Health and Safety Code relating to the licensing and regulation of maternity homes and a provision of the Human Resources Code requiring the executive commissioner of the Health and Human Services Commission to adopt specific rules and minimum standards for a child-care facility that is located in a temporary shelter. Except as otherwise provided, the bill makes its provisions effective September 1, 2011.

## **Child-Care Services and Facilities**

**House Bill 1615**  
**Effective:** 9-1-11

**House Author:** Brown  
**Senate Sponsor:** Ogden et al.

House Bill 1615 amends the Human Resources Code to prohibit a director, owner, operator, caretaker, employee, or volunteer of certain child-care facilities from administering a medication to a child unless a parent or guardian submits a signed authorization to administer the medication for not longer than one year and the medication has not expired and is administered according to the label or written instructions of a practitioner. The bill specifies the circumstances under which a child may be administered medication without such an authorization and exempts from



its provisions the administration of medication to a child in certain medical emergencies. The bill makes it a Class A misdemeanor to administer a medication to a child in violation of the bill.

**House Bill 3051**  
**Effective:** 9-1-11

**House Author:** Pickett et al.  
**Senate Sponsor:** Rodriguez

House Bill 3051 amends the Human Resources Code to authorize a child-care facility located in a county with a population of 800,000 or more that is adjacent to an international border that is exempt from licensing requirements based in part on the facility's operation in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are engaged in certain activities on or near the premises to provide care for each child at the child-care facility for not more than 15 hours a week if the facility provides child care so that a person may attend an educational class provided by a nonprofit entity.

**House Bill 3547**  
**Effective:** 9-1-11

**House Author:** Alvarado  
**Senate Sponsor:** Gallegos

House Bill 3547 amends the Human Resources Code to authorize 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. The bill requires a municipality or county to report to the Department of Family and Protective Services any violation of fire safety standards observed by the municipality or county at a licensed group day-care home or registered family home.

**Senate Bill 76**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Morrison

Senate Bill 76 amends the Labor Code to require certain subsidized relative child care to be provided in the child-care provider's home, except for circumstances relating to a child with a disability, the age of the child or the child's parent, the parent's work schedule, or a Texas Workforce Commission (TWC) determination to allow relative child care to be provided in the child's home. The bill requires a relative child-care provider to list the provider's home with the Department of Family and Protective Services (DFPS), requires the TWC and DFPS to enter into a memorandum of understanding regarding such a listing, and requires DFPS to provide notice regarding a background and criminal history check. The bill requires the TWC to develop risk assessment protocols to identify and assess possible instances of fraud, waste, and abuse in child-care programs and authorizes the TWC to use a motor vehicle record to prevent and detect such fraud, waste, and abuse. The bill requires the TWC to ensure that certain corrective action is initiated against a child-care provider or a parent who commits fraud and entitles a provider or parent to appeal a corrective action. The bill requires the TWC to use, if feasible, an electronic validation system to verify child-care services and attendance. The bill amends the Human Resources Code to authorize a relative child-care provider who only provides child care to children related to the provider to list the provider's home as a family home, sets out requirements relating to such a listing, and exempts such a provider's home from certain federal health and safety requirements and DFPS fees. The bill amends provisions of the Transportation Code relating to the disclosure of motor vehicle records and a person's photographic image for purposes of provisions relating to employment services and unemployment.

**Senate Bill 260**  
**Effective:** 9-1-11

**Senate Author:** West et al.  
**House Sponsor:** Raymond

Senate Bill 260 amends the Human Resources Code to make minimum training standards prescribed for employees of a day-care center, group day-care home, or registered family home applicable to a director or operator of such a facility. The bill increases from 8 to 24 the hours of initial training required of certain employees of a day-care center, requiring the training to be completed not later than the 90th day after the employee's first day of employment. This requirement is applicable to an employee who has no previous training or has less than two years of employment experience in a regulated child-care facility. An employee must complete eight hours of the initial training before the employee is given responsibility for a group of children.

Senate Bill 260 increases from 15 to 24 the hours of annual training required for each employee of a day-care center or group day-care home and increases from 20 to 30 the hours of annual training required for each director of a day-care center or group day-care home or operator of a registered family home and prohibits the Department of Family and Protective Services from requiring additional training hours. The bill requires the executive director of the Health and Human Services Commission to adopt minimum 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 prescribed by law. The bill requires an employee of specified care facilities to complete an orientation to the facility not later than the seventh day after the date the employee begins employment.

**Senate Bill 265**  
**Effective:** 1-1-12

**Senate Author:** Zaffirini  
**House Sponsor:** Carter

Senate Bill 265 amends the Human Resources Code to require the training provided to an employee of certain facilities, homes, and agencies that provide child-care services to be appropriately targeted and relevant to the age of each child who will receive care from the individual receiving training. The bill requires the training to be provided by a person with certain specified qualifications and only if the Department of Family and Protective Services has not taken certain disciplinary action during the two-year period preceding the date on which the person provides the training.

**Senate Bill 400**  
**Effective:** 9-1-11

**Senate Author:** Shapiro et al.  
**House Sponsor:** Hopson

Senate Bill 400 amends the Government Code to include a child-care provider that meets the Texas Rising Star Provider criteria described by Texas Workforce Commission rules among the entities eligible to purchase goods and services through the cooperative purchasing program administered by the comptroller of public accounts.

## **Indigent Health Care**

**House Bill 871**  
**Effective:** 9-1-11

**House Author:** Davis, Yvonne  
**Senate Sponsor:** Zaffirini

House Bill 871 amends the Health and Safety Code to include physical and occupational therapy services in the optional health care services authorized to be provided by a county in accordance with Department of State Health Services rules adopted under the Indigent Health Care and Treatment Act.

**House Bill 2315**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** Deuell

House Bill 2315 amends the Health and Safety Code to redefine “general revenue levy,” for purposes of the Indigent Health Care and Treatment Act, to include property taxes imposed by a county that are not dedicated to the payment of principal or interest on county debt.

**Senate Bill 303**  
**Effective:** 9-1-11

**Senate Author:** Nichols  
**House Sponsor:** Scott et al.

A hospital district is authorized under certain provisions of the Indigent Health Care and Treatment Act to adopt reasonable procedures for preventing and detecting fraud, including procedures for disqualifying eligible residents of the district in cases where fraud appears to exist. Senate Bill 303 amends the Health and Safety Code to authorize a hospital district to recover, from an eligible resident of the district perpetrating a fraud, an amount equal to the value of any fraudulently obtained health care services provided to the eligible resident who is disqualified under that provision. The bill also authorizes a hospital district that does not operate a hospital, after the district pays the providing hospital for the actual cost of the service, to 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. The bill sets out provisions relating to the attachment of the lien, the amount of the lien, and notice procedures for the lien.

The bill authorizes the board of hospital managers of the Tarrant County Hospital District to appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district to fulfill its statutory mandate to provide medical care for the indigent and needy residents of the district. The bill, among other provisions, requires the district’s medical executive committee to adopt, maintain, and enforce policies to ensure that a physician exercises the physician’s independent medical judgment in providing care.

**Senate Bill 420**  
**Effective:** 5-28-11

**Senate Author:** Deuell et al.  
**House Sponsor:** Taylor, Van

Senate Bill 420 amends the Health and Safety Code to require the Department of State Health Services (DSHS) by rule to provide that, in determining eligibility under the Indigent Health Care and Treatment Act for an applicant who is a sponsored alien, a county is authorized to 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, and to exempt such rules from the prohibition against DSHS adopting a standard or procedure that is more restrictive than the Temporary Assistance for Needy Families program or procedures.

## Medicaid and CHIP

**House Bill 1720**  
**Effective:** 9-1-11

**House Author:** Davis, John  
**Senate Sponsor:** Patrick et al.

House Bill 1720 amends the Government Code, Health and Safety Code, and Human Resources Code to enact various provisions relating to the administration of Medicaid and the child health plan program (CHIP). The bill includes provisions relating to the inclusion of national provider identifier numbers with any reimbursement claim submitted by a Medicaid or CHIP provider based on certain referrals or orders for services involving supervised providers;

fraud and abuse notification and payment recovery procedures for a managed care organization; an annual report by the Health and Human Services Commission (HHSC) on certain fraud and abuse recovery; establishment of a program under which HHSC contracts with recovery audit contractors for purposes of identifying underpayments and overpayments under Medicaid and recovering the overpayments; a prohibition against certain persons participating in Medicaid or CHIP as a health care provider; establishment of the criteria for which HHSC or HHSC's office of inspector general is authorized to suspend a provider's billing privileges, revoke a provider's enrollment, or deny a person's application to enroll as a provider under Medicaid; disclosures required to be made by a Medicaid provider or person applying to enroll as a provider and the imposition of a temporary moratorium or numerical caps or other limits on the enrollment of new providers determined to have a significant potential for fraud, waste, or abuse; the financial liability of a person who fails to maintain certain claim documentation or engages in other conduct in violation of the Medicaid program; and in-person evaluation requirements of certain recipients of home health services.

House Bill 1720 entitles HHSC's office of inspector general to obtain certain criminal history record information that relates to a Medicaid provider or a person applying to enroll as a Medicaid provider, makes provisions relating to the exchange of certain information regarding allegations of Medicaid fraud or abuse applicable to criminal history record information that relates to a health care professional, and authorizes participating agencies to enter into a memorandum of understanding or agreement for the purpose of exchanging such criminal history record information.

House Bill 1720 prohibits the Department of Aging and Disability Services (DADS) from renewing an initial home and community support services agency license unless DADS has conducted an initial on-site survey of the agency, requires a license holder or applicant to provide a reasonable and safe working environment for purposes of the survey, and establishes training requirements for home and community support services agencies and surveyors. The bill establishes reporting requirements relating to application information for home and community support services license holders and authorizes the executive commissioner to adopt rules governing the duties and responsibilities of agency administrators.

House Bill 1720 authorizes DADS to consider and evaluate the compliance history of an applicant for a convalescent or nursing home license and other specified persons for any period during which the applicant or other person operated an institution in Texas or in another state or jurisdiction and authorizes the exclusion of licensing eligibility for certain persons with a history of noncompliance to extend throughout the person's lifetime or existence. The bill makes provisions relating to criminal history checks of employees in facilities serving the elderly, persons with disabilities, or persons with terminal illnesses applicable to an individual employer who participates in the consumer-directed service option developed for persons with a disability or elderly persons receiving state-funded or Medicaid-funded services and who is responsible for hiring service providers to deliver program services.

House Bill 1720 revises training requirements for certain long-term care facility surveyors and providers and authorizes DADS to charge a fee for the training. The bill expands the grounds under which DADS is authorized to deny, suspend, or revoke the license of an applicant or holder of a license issued under the Adult Day Care Act, authorizes DADS to assess an administrative penalty under that act, and establishes provisions governing the assessment of such a penalty.

**House Bill 1983**  
**Effective:** 9-1-11

**House Author:** Kolkhorst et al.  
**Senate Sponsor:** Nelson

House Bill 1983 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to achieve cost savings with improved outcomes through evidence-based

and tested quality initiatives designed to reduce the number of elective or nonmedically indicated induced child deliveries or cesarean sections performed on medical assistance recipients before the 39th week of gestation. The bill amends the Health and Safety Code to require hospitals providing obstetrical services to collaborate with physicians performing the services to develop and implement quality initiatives to reduce the number of these procedures. House Bill 1983 requires HHSC to study the effects of the quality initiatives on infant health and frequency of infant admissions to neonatal intensive care units and hospital readmissions for mothers and infants and to report the findings to the house and senate committees with primary jurisdiction over public health not later than December 1, 2012.

**House Bill 2136**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 2136 amends the Government Code to require the executive commissioner of the Health and Human Services Commission 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 and to enforce compliance with the rules in any contract with a regional broker. The rules must require a regional contracted broker to check the driving record and the public criminal record information maintained by the Department of Public Safety of each motor vehicle operator providing or seeking to provide services.

**House Bill 2245**  
**Effective:** 9-1-11

**House Author:** Zerwas et al.  
**Senate Sponsor:** Nelson

House Bill 2245 amends the Government Code to require the Health and Human Services Commission (HHSC) to conduct a study to evaluate physician incentive programs that are administered by health maintenance organizations participating in a Medicaid program and that attempt to reduce hospital emergency room use for non-emergent conditions by Medicaid recipients. The bill requires the HHSC executive commissioner to report the study's findings to the governor and Legislative Budget Board not later than August 31, 2012, and to establish a physician incentive program to reduce hospital emergency room use for non-emergent conditions by Medicaid recipients, including only the cost-effective program components identified in the study.

**House Bill 2722**  
**Effective:** 6-17-11

**House Author:** Perry  
**Senate Sponsor:** Duncan

House Bill 2722 amends the Human Resources Code to require the executive commissioner of the Health and Human Services Commission to adopt rules ensuring, 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, other adequate public or private sources of payment are not available.

**Senate Bill 222**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Raymond

Senate Bill 222 amends the Government Code to require the Health and Human Services Commission (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 their services and supports and specifies the elements required to be included in that criteria. The bill amends the Health and Safety Code to require the Department of Aging and Disability Services (DADS) to



ensure that local mental retardation authorities inform and counsel individuals and their legally authorized representatives about all program and service options for which the individuals are eligible. The bill amends the Human Resources Code to require DADS, in cooperation with HHSC, to educate the public on the availability of home- and community-based services and the various service delivery options available under Medicaid and to post on the department's Internet website historical data on the percentages of individuals who elect to receive services under a program for which DADS maintains an interest list.

Senate Bill 222 requires HHSC, in cooperation with DADS, to prepare a written report regarding individuals who receive long-term care services in nursing facilities under Medicaid and to submit the report, not later than September 1, 2012, to the governor, the Legislative Budget Board, the Senate Committee on Finance, the Senate Committee on Health and Human Services, the House Appropriations Committee, and the House Human Services Committee. The bill requires the executive commissioner of HHSC to apply for and actively pursue amendments to specified home- and community-based services waiver programs to authorize the provision of personal attendant services through the programs operated under those waivers.

**Senate Bill 293**  
**Effective:** 9-1-11

**Senate Author:** Watson et al.  
**House Sponsor:** Davis, John

Senate Bill 293 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to establish a statewide program that permits reimbursement under Medicaid for home telemonitoring services on determining that such a program would be cost-effective and feasible. The bill sets out requirements for the program, including a requirement that home telemonitoring services under the program be made available only to persons who are diagnosed with one or more specified conditions and who exhibit two or more specified risk factors. The bill requires HHSC to submit a report to the governor, lieutenant governor, and speaker of the house of representatives regarding the program and authorizes HHSC to discontinue the program and stop providing reimbursement for telemonitoring services after implementation on determining that the program is not cost-effective. The bill requires HHSC to determine whether the provision of home telemonitoring services to persons eligible for benefits under both Medicaid and Medicare achieves cost savings for the Medicare program. The bill makes provisions of law relating to Medicaid reimbursement of certain service providers applicable to providers of services performed using telehealth services and provisions relating to telemedicine technology standards for an operating system used in the provision of certain services by a health care facility participating in the state Medicaid program applicable to telehealth and home telemonitoring services. The bill renames the telemedicine advisory committee and requires the advisory committee to include representatives of telemedicine medical services, telehealth services, and home telemonitoring services providers. The bill repeals certain provisions relating to telehealth services and telemedicine medical services.

**Senate Bill 874**  
**Effective:** 5-9-11

**Senate Author:** Fraser  
**House Sponsor:** Craddick

Senate Bill 874 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to establish a separate provider type for prosthetic and orthotic providers for purposes of enrollment as a provider of and reimbursement under Medicaid and prohibits HHSC from classifying prosthetic and orthotic providers under the durable medical equipment provider type.

**Senate Bill 1220**  
**Effective:** 6-17-11

**Senate Author:** Hinojosa et al.  
**House Sponsor:** Gonzales, Veronica

Senate Bill 1220 amends the Government Code to re-create 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 and to update deadlines for certain Health and Human Services Commission duties relating to the study and analysis of those rates and expenditures. The advisory committee expires September 1, 2015.

## **Mental Health and Mental Retardation**

**House Bill 35**  
**Effective:** 9-1-11

**House Author:** Menendez  
**Senate Sponsor:** Van de Putte

House Bill 35 extends the local behavioral health intervention pilot project established by the Department of State Health Services (DSHS) for children in Bexar County to September 1, 2013, and extends to December 1, 2012, the deadline by which the local mental health authority involved in the pilot project must submit a report to DSHS regarding the pilot project.

**House Bill 167**  
**Effective:** 9-1-11

**House Author:** Raymond  
**Senate Sponsor:** Zaffirini

House Bill 167 amends the Health and Safety Code to authorize the commissioners court of a county to establish and maintain a list of qualified transportation service providers that a court may authorize to transport a certain mental health patient to a designated mental health facility for the purposes of emergency detention or a protective custody order, and grants the commissioners court certain other authority with regard to that list. The bill expands the persons authorized to provide such transportation to include a qualified transportation service provider selected from the respective commissioners court's list, establishes an order of priority for the persons whom a court may authorize to provide the transportation, and authorizes certain persons who are authorized to provide the transportation to contract with a listed qualified transportation service provider. The bill requires the Department of State Health Services to prescribe uniform standards for listing as a qualified transportation service provider and for the provision of transportation to a mental health facility.

**House Bill 1829**  
**Effective:** 9-1-11

**House Author:** Naishtat  
**Senate Sponsor:** Nelson

House Bill 1829 amends the Health and Safety Code to authorize a judge or magistrate to permit a physician applying for emergency detention to present the application to the judge or magistrate by e-mail with the application attached as a secure document in a portable document format, and to authorize a judge or magistrate, after the application is presented by e-mail or by other secure electronic means, to transmit a warrant to the applicant electronically or by e-mail if the warrant is accompanied by a digital or legal signature, respectively. The bill authorizes a mental health facility that has admitted a person for emergency detention or to which a person has been transported for detainment following emergency detention to transfer the person to an appropriate mental hospital with the written consent of the hospital administrator.

**House Bill 3342**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Rodriguez

House Bill 3342 amends the Health and Safety Code to clarify that provisions establishing who represents the state in certain hearings under the Texas Mental Health Code are applicable to a hearing regarding the administration of medication to a patient under order for inpatient mental health services. The bill sets out requirements relating to habeas corpus proceedings under the Texas Mental Health Code, including requirements relating to the filing of a petition for a writ of habeas corpus arising from a commitment order, the state as party in certain habeas corpus proceedings, and representation of the state in certain habeas corpus proceedings.

**Senate Bill 118**  
**Effective:** 9-1-11

**Senate Author:** Uresti  
**House Sponsor:** Menendez et al.

Senate Bill 118 amends the Health and Safety Code to change from at least 60 consecutive days during the preceding 12 months to a total of at least 60 days during the preceding 12 months the minimum amount of time a proposed patient has received certain court-ordered inpatient mental health services before a judge is authorized to order the proposed patient to receive court-ordered extended outpatient mental health services and includes as an alternative condition on which such an order may be based a finding that the proposed patient has received court-ordered outpatient mental health services during the preceding 60 days. The bill requires an application for extended outpatient mental health services to state certain information regarding the amount of court-ordered inpatient or outpatient mental health services the person has received.

## **Nursing Home, Assisted Living, and Related Facilities**

**House Bill 434**  
**Effective:** 6-17-11

**House Author:** Parker et al.  
**Senate Sponsor:** West

House Bill 434 amends the Human Resources Code to require the Department of Family and Protective Services to promulgate minimum standards that apply to licensed child-care facilities and to registered family homes that will ensure that a child-care facility or registered family home follows the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child and maintains for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home.

**House Bill 2109**  
**Effective:** 6-17-11

**House Author:** Truitt  
**Senate Sponsor:** Uresti

House Bill 2109 amends Health and Safety Code provisions relating to the regulation of inappropriate placement of a resident in an assisted living facility. The bill establishes that an assisted living facility that identifies a resident who the facility believes is inappropriately placed at the facility is not required to move the resident if the facility obtains the written statements and waiver required for the resident to remain in the facility. The bill removes a prohibition against the Department of Aging and Disability Services (DADS) assessing an administrative penalty against a facility because of the inappropriate placement of a resident. The bill authorizes DADS, under certain conditions, to assess an administrative penalty or seek an emergency suspension or closing order or other sanction against the facility if a facility is required to discharge the resident because the facility has not obtained the required written statements or DADS does not approve a waiver. The bill prohibits a DADS employee from retaliating against a facility, a facility employee, or a person in control of the facility for complaining about the conduct of

or disagreeing with a DADS employee or asserting a right under state or federal law. The bill requires DADS to ensure that each facility and resident is aware of the waiver process for aging in place and establishes requirements for the facility to provide information and training regarding policies and procedures for aging in place and retaliation.

**House Bill 2609**

**Effective:** 9-1-11

**House Author:** Guillen

**Senate Sponsor:** Uresti

House Bill 2609 amends the Health and Safety Code to include a person who has been convicted of an offense of obstruction or retaliation among the persons barred from employment in certain facilities serving the elderly, persons with disabilities, or persons with terminal illness.

**House Bill 3197**

**Effective:** 6-17-11

**House Author:** Coleman

**Senate Sponsor:** Deuell

House Bill 3197 requires the executive commissioner of the Health and Human Services Commission to create a pilot program to implement the culture change model of care at one state supported living center. The bill specifies program requirements and establishes criteria for selecting the state supported living center to participate in the pilot program. The bill requires the Department of Aging and Disability Services (DADS) to determine the size and scope of the pilot program and authorizes DADS to hire a consultant to assist in the implementation of the pilot program. The bill requires DADS to enter into a memorandum of understanding with the Texas Long Term Care Institute at Texas State University for the institute to assist in implementing the culture change model of care and sets out additional requirements relating to the model's implementation. The bill requires DADS, not later than September 1, 2012, to submit a report to the governor and the Legislative Budget Board relating to the pilot program and to file a quarterly report with the Legislative Budget Board relating to allegations of abuse, neglect, or exploitation in each state supported living center.

**Senate Bill 37**

**Effective:** 4-21-11

**Senate Author:** Zaffirini et al.

**House Sponsor:** Naishtat

Senate Bill 37 amends the Government Code to provide 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.

**Senate Bill 41**

**Effective:** 6-17-11

**Senate Author:** Zaffirini

**House Sponsor:** Davis, John

Senate Bill 41 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission, not later than January 1, 2012, to adopt rules to limit the use of mechanical or physical restraints in state supported living centers and prohibit the use of prone and supine holds on a resident of a state supported living center except as transitional holds. The bill prohibits the issuance of a standing order to administer a mechanical or physical restraint to a resident, administration of a mechanical or physical restraint pursuant to such a standing order, or use of a straightjacket to restrain a resident. The bill requires a state supported living center to report to the executive commissioner each incident in which a physical or mechanical restraint is administered and requires the report to contain certain information and be in the form required by executive commissioner rule.

**Senate Bill 223**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Gonzalez

Senate Bill 223 amends provisions of the Health and Safety Code, Government Code, and Human Resources Code relating to home and community support services agencies, nursing institutions, adult day-care facilities, certain long-term care facilities, and the prevention of criminal or fraudulent conduct by certain facilities and providers under Medicaid. The bill sets out requirements relating to a survey conducted by a Department of Aging and Disability Services (DADS) representative and prohibits DADS from renewing an agency license without an initial on-site survey. The bill includes requirements for DADS to provide semiannual training for home and community support services agencies and surveyors and surveyors and providers of long-term care facilities, requires a home and community support services agency license holder to report a change in certain information provided in a license application, and authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules governing the duties and responsibilities of home and community services agency administrators. Previous law required the attorney general, in addition to DADS, to prepare a performance report relating to convalescent and nursing homes. The bill removes the attorney general from this requirement, authorizes DADS to consider and evaluate the compliance history of an applicant for a convalescent or nursing home license and other specified persons for any period during which the applicant or other person operated an institution in Texas or in another state or jurisdiction, and removes the 10-year time limit on the period for which a person may be excluded from eligibility for a convalescent and nursing home license once the person's license has been denied, suspended, or revoked.

Senate Bill 223 makes provisions relating to criminal history checks of employees and applicants for employment in certain facilities serving the elderly, persons with disabilities, or persons with terminal illnesses apply to a financial management services agency serving as a fiscal and employer agent for an individual employer participating in the consumer-directed service option and such an individual employer. The bill revises provisions entitling HHSC or the office of inspector general to certain criminal history record information relating to a Medicaid provider, requiring the office to impose a hold on payment for claims for reimbursement submitted by a Medicaid provider, and establishing a participating agency's duty to exchange certain criminal history record information. The bill includes provisions relating to disclosures required to be made by a Medicaid provider or person applying to enroll as a provider, violations for failure to maintain required documentation to support a Medicaid claim for payment or other conduct in violation of the Medicaid program, and the penalty for such a violation. The bill authorizes DADS to assess an administrative penalty against a person who violates the Adult Day Care Act or engages in certain prohibited activities.

**The summaries for the following bills are in the listed chapters:**

- House Bill 335 - State Government
- House Bill 826 - Public Education
- House Bill 1386 - Public Education
- House Bill 2096 - Civil Remedies and Procedures
- Senate Bill 7 (1st C.S.) - Appropriations and State Finance
- Senate Bill 43 - Civil Remedies and Procedures
- Senate Bill 434 - Family Law
- Senate Bill 471 - Public Education



# Insurance

This chapter covers legislation relating to the regulation of companies and individuals licensed to sell insurance or annuities in Texas. In addition, the chapter covers legislation relating to the functions and operations of the Texas Department of Insurance and the Texas Windstorm Insurance Association. The chapter also contains legislation relating to insurance holding company systems, the licensing of life settlement contract providers or brokers, and coverages provided by certain health benefit plans. Legislation relating to workers' compensation insurance is in the **Labor and Employment** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

**House Bill 3 (1st C.S.)**  
**Effective:** 9-28-11

**House Author:** Smithee  
**Senate Sponsor:** Carona

House Bill 3 amends Insurance Code provisions to continue the Texas Windstorm Insurance Association (TWIA) until September 1, 2015. Among other provisions, the bill:

- sets out provisions relating to a supervision or conservatorship action brought against TWIA by the commissioner of insurance;
- prohibits a person from bringing a private action against TWIA or its agents or representatives under the Unfair Claim Settlement Practices Act and Insurance Code provisions related to unfair methods of competition and unfair or deceptive acts or practices;
- prohibits the consideration of TWIA as a debtor authorized to file a petition or seek relief when a corporate entity is seeking to reorganize itself under federal bankruptcy law;
- makes TWIA subject to audit by the state auditor and requires the commissioner to conduct a random audit of TWIA's claims practices;
- authorizes excess insured losses not paid from TWIA's available reserves or the catastrophe reserve to be paid from the proceeds of Class 1 public securities issued before an occurrence that results in a loss, caps the total amount of such securities that may be issued each year, and extends the repayment period for such securities from 10 to 14 years;
- revises requirements for the issuance of Class 1, Class 2, and Class 3 public securities;
- authorizes a temporary appointment of a member to the TWIA board by the commissioner, revises provisions relating to TWIA's board of directors meetings, and clarifies the applicability of the public information law and the open meetings law with respect to TWIA;
- revises and expands ethical requirements that apply to TWIA board members and employees;
- requires TWIA to develop a simplified renewal process for the acceptance of an application for renewal coverage and payment of premiums;
- requires the commissioner to approve a commission structure for payment of an agent who submits an application for coverage to TWIA on behalf of a person who has an insurable interest in insurable property;
- requires a windstorm and hail insurance policy issued by TWIA to require an insured to file a claim under the policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs and to contain a conspicuous notice

- concerning the resolution of disputes under the policy, authorizes the commissioner to extend that one-year period, and prohibits TWIA from issuing coverage for a wind turbine;
- establishes that the Texas Department of Insurance (TDI) has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors, establishes requirements regarding such appointment and oversight, and requires the commissioner to adopt rules;
  - authorizes the commissioner to provide by rule a discount of, or a credit against, a surcharge assessed against certain noncompliant structures if a policyholder demonstrates that the structure was constructed with at least one structural building component that complies with the applicable building code standards;
  - authorizes a person who has an insurable interest in a residential structure to obtain insurance coverage through TWIA for that structure without obtaining a certificate of compliance, authorizes TDI to issue an alternative certification to such a person under specified circumstances, and requires the commissioner to adopt rules;
  - expands the factors that must be considered in adopting rates for TWIA coverage;
  - authorizes TWIA to offer a person insured under the TWIA Act an actuarially justified premium discount on a TWIA policy or an actuarially justified credit against a surcharge assessed against the person if the alteration to the person's property exceeds applicable building code standards or if the person elects to purchase a binding arbitration endorsement; requires the commissioner to adopt rules;
  - requires the TWIA board, if TWIA does not purchase reinsurance, to submit a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more and sets out requirements for the report;
  - requires the board to submit an annual catastrophe report that describes the manner in which TWIA will evaluate and pay losses and process claims after certain windstorms with a low probability of occurring;
  - authorizes a person insured under the TWIA Act to elect to purchase a binding arbitration endorsement in a form prescribed by the commissioner requiring the person to arbitrate a dispute involving a TWIA act, ruling, or decision relating to the payment, amount, or denial of the claim;
  - provides the exclusive remedies for a claim against TWIA, including an agent or representative; sets out the procedure for filing a claim and for TWIA's response to and payment of a claim; sets out an insured's recourse if a dispute arises concerning the amount of accepted coverage or denied coverage; limits the issues that a claimant may raise in an action brought against TWIA and the types of recovery available to a claimant; and establishes a limitations period by which a claimant must bring an action;
  - requires the commissioner to appoint a panel of experts to advise TWIA concerning the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, or other rising waters and requires the commissioner to publish guidelines based on such advice that TWIA will use to settle claims;
  - requires the commissioner to adopt rules concerning the claims dispute and resolution process and requires TDI to establish an ombudsman program;
  - requires TWIA to submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities and expands and revises the authorized uses of public security proceeds;
  - specifies the trust funds in which certain revenue collected from member assessments and premium surcharges must be deposited;

- specifies the policyholders to whom a premium surcharge is charged for purposes of paying the cost of Class 2 public securities, includes a policyholder of a policy that covers automobiles principally garaged in a catastrophe area among the policyholders on whom such a premium surcharge is assessed, and revises the policies to which such a premium surcharge applies;
- establishes that Texas pledges not to take or permit any action that would interfere with the collection and disposition of money related to TWIA and establishes the preeminence of TWIA's public security obligations over contract rights; and
- authorizes a windstorm and hail policy form or printed endorsement to establish a contractual limitations period for filing suit and authorizes such a form or endorsement to require that a claim be filed within a certain period.

House Bill 3 amends the Occupations Code to require the Texas Board of Professional Engineers to review TWIA's plan of operation and the windstorm certification standards; to, in consultation with TDI, adopt rules establishing criteria for determining whether an engineer is qualified to provide engineering design services for TWIA purposes; to prepare and publish a roster of engineers who satisfy such criteria; and to adopt rules, in consultation with TDI, requiring an engineer who is providing engineering design services to comply with windstorm certification standards.

**House Bill 1951**  
**Effective:** 9-1-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Hegar

House Bill 1951 amends the Insurance Code to continue the Texas Department of Insurance (TDI) until September 1, 2023. In addition to enacting across-the-board sunset provisions, the bill expands TDI's duties; requires the commissioner of insurance to adopt rules regarding the purpose, structure, and use of advisory committees by the commissioner, state fire marshal, or TDI staff; and requires the commissioner to periodically evaluate such an advisory committee to ensure its continued necessity. The bill abolishes the following entities: the consumer assistance program for health maintenance organizations (HMOs) advisory committee; the executive committee of the market assistance program for residential property insurance; the TexLink to Health Coverage Program task force; the HMO solvency surveillance committee; the technical advisory committee on claims processing; the technical advisory committee on electronic data exchange; the examination of license applicants advisory board; the advisory council on continuing education for insurance agents; the insurance adjusters examination advisory board; the public insurance adjusters examination advisory committee; the utilization review agents advisory committee; the fire extinguisher advisory council; the fire detection and alarm devices advisory council; the fire protection advisory council; and the fireworks advisory council. The bill transfers all powers, duties, obligations, rights, contracts, funds, records, and real or personal property of the above entities to TDI.

House Bill 1951 revises provisions relating to assessments charged to HMOs to provide funds for the rehabilitation, liquidation, supervision, conservatorship, or seizure of an impaired HMO. The bill requires an HMO, an accident and health policy insurer, and a small employer benefit plan insurer, as appropriate, to give to each enrollee, insured, or small employer under an individual evidence of coverage, as appropriate, timely written notice of the effective date of a rate increase and certain information relating to the increase. The bill prohibits an HMO or insurer from requiring an enrollee, insured, or employer entitled to such notice to respond to the HMO or insurer to renew the policy or take action relating to the renewal or extension of the coverage before a certain date.

House Bill 1951 requires the commissioner by rule to prescribe the process through which TDI requests supplementary rating information and supporting information for purposes of the

rate filing requirement. The bill provides the deadline by which the commissioner is required to disapprove a rate that is filed for prior approval and that does not comply with applicable requirements, and sets out provisions related to TDI requesting additional information, if necessary.

House Bill 1951 requires TDI to annually make available to the public information concerning TDI's general process and methodology for rate review. The bill requires the commissioner, if the commissioner requires an insurer to file the insurer's rates for prior approval, to periodically assess whether the conditions that led the commissioner to require such a filing continue to exist; to explain to an insurer the conditions under which the insurer is excused from such requirements; and to issue an order excusing the insurer from such a filing if those conditions no longer exist. The bill requires the commissioner to define by rule the financial conditions and rating practices that may subject an insurer to prior approval rating filing requirements and the process by which the commissioner determines that a statewide insurance emergency exists. The bill requires TDI to track and analyze precedents relating to the factors contributing to the disapproval of rates and to the volume and request for additional information. The bill requires the commissioner, not less frequently than once every five years, to evaluate the information collected for purposes of fixing title insurance premium rates to determine whether TDI needs additional or different information or no longer needs certain information to promulgate rates.

House Bill 1951 authorizes an insurer or other organization regulated by TDI to conduct business electronically if before the conduct of business each party to the business agrees to conduct the business electronically and requires the commissioner to adopt rules relating to such electronic transactions. The bill requires the commissioner to require each insurer who writes personal automobile insurance or residential property insurance in Texas to annually file with the commissioner aggregate claims information for the period covered by the filing; requires TDI to post the data contained in claims information filing on TDI's Internet website; and authorizes the commissioner to adopt rules necessary to implement these requirements.

House Bill 1951 expands the factors that the commissioner is required to consider in determining which areas to designate as underserved for residential property insurance. The bill requires the commissioner, not less than once every six years, to determine which areas to designate as underserved and to conduct a study concerning the accuracy of current designations of underserved areas. The bill requires the commissioner to conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers who are exempt from rate filing and approval requirements and to report the results of the study in TDI's biennial report to the legislature.

House Bill 1951 specifies that the rules required to be adopted by the commissioner to implement provisions governing health benefit plans for children include rules necessary to increase the availability of coverage to children younger than 19 years of age, to establish an open enrollment period, and to establish qualifying events as exceptions to the open enrollment period. The bill authorizes the commissioner to adopt rules on an emergency basis in order to implement provisions relating to health benefit plans for children.

The bill establishes an adjuster advisory board to make recommendations to the commissioner. The bill exempts from limited property and casualty agent licensing requirements a person who wrote for the previous calendar year job protection insurance policies for an insurer that generated, in the aggregate, less than \$40,000 in direct premium.

House Bill 1951 prohibits a managed care plan from requiring a therapeutic optometrist or ophthalmologist to be included in or to accept the terms of payment under or for a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included. The bill prohibits an insurer or an insurer's agent from reporting to a claims database information regarding an inquiry by an insured regarding coverage provided under a

personal automobile insurance policy or a residential property insurance policy unless and until the insured files a claim under the policy. The bill raises the minimum liability threshold for a surety company to be required to obtain reinsurance for such liability and repeals a provision capping the amount of a surety company's capital and surplus that is authorized to be reinsured for purposes of a governmental entity's conditional acceptance of the company's obligation. The bill revises curriculum requirements for a residential fire alarm technician course.

House Bill 1951 amends the Government Code to require the commissioner to prescribe by rule a reasonable fee for an inspection performed by the state fire marshal that may be charged to a property owner or occupant who requests the inspection. The bill requires the commissioner to adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings. The bill requires the commissioner to delegate by rule to the state fire marshal the authority to take disciplinary and enforcement action against a person or firm licensed, registered, or otherwise regulated by TDI through the state fire marshal and sets out provisions related to administrative penalties.

**House Bill 2154**  
**Effective:** 9-1-11

**House Author:** Eiland et al.  
**Senate Sponsor:** Ellis

Previous law required each resident agent who sells, solicits, or negotiates a contract for an annuity in Texas, or who represents or purports to represent an insurer in relation to such an annuity, to complete four hours of continuing education annually that specifically relates to annuities. House Bill 2154 amends the Insurance Code to require instead that such an agent complete eight hours of continuing education during the agent's two-year licensing period.

**House Bill 2503**  
**Effective:** 9-1-11

**House Author:** Thompson  
**Senate Sponsor:** Eltife

Current law sets out conditions under which the Texas Department of Insurance is required to issue an insurance agent license to a corporation or partnership. House Bill 2503 amends the Insurance Code to remove as one of those conditions the department's determination that the corporation or partnership is admitted to engage in business in Texas by the secretary of state.

**House Bill 2699**  
**Effective:** 9-1-11

**House Author:** Eiland  
**Senate Sponsor:** Carona

House Bill 2699 amends the Insurance Code to authorize a business entity to qualify for an insurance adjuster license if the business entity meets certain requirements. The bill prohibits an individual who is a resident of Canada from being licensed as an insurance adjuster in Texas and from designating Texas as the individual's home state unless the individual has successfully passed the adjuster examination and complied with the other applicable requirements for the license, with certain exceptions. The bill includes among the persons who are exempt from insurance adjuster license requirements certain individuals and their licensed agent supervisors who collect claim information from, or furnish claim information to, an insured or claimant and enter data into an automated claims adjudication system.

**House Bill 3410**  
**Effective:** 1-1-12

**House Author:** Smithee  
**Senate Sponsor:** Duncan

House Bill 3410 amends the Insurance Code to require a surplus lines agent that places an insurance policy with a managing underwriter to collect, report, and pay the surplus lines insurance premium tax. The bill requires a managing underwriter with whom an insurance policy is placed by a surplus lines agent and 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



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the records available for inspection by the Texas Department of Insurance and the comptroller of public accounts. The bill authorizes a managing underwriter to hold both a surplus lines agent license and a managing general agent license.

**Senate Bill 647**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Taylor, Larry

Senate Bill 647 amends the Insurance Code to continue the office of public insurance counsel to September 1, 2023, and to enact across-the-board sunset provisions relating to alternative dispute resolution procedures.

**Senate Bill 918**  
**Effective:** 9-1-11

**Senate Author:** Wentworth  
**House Sponsor:** Thompson

Senate Bill 918 amends the Insurance Code to add to the conditions under which a person is not liable in nor subject to a civil action for furnishing information relating to a suspected, anticipated, or completed fraudulent insurance act. The bill provides for such immunity when the recipient is an organization primarily dedicated to the detection, investigation, and prosecution of insurance fraud, the person is a member of the organization, and the person is either required to provide such information to the Texas Department of Insurance (TDI) or the organization is required to provide such information to TDI on the person's behalf.

**Senate Bill 1229**  
**Effective:** 5-28-11

**Senate Author:** Eltife  
**House Sponsor:** Eiland

Senate Bill 1229 amends the Insurance Code to include among the information required to be provided to the Texas Department of Insurance's chief examiner by a person with whom another state contracts to perform any respective market analysis or examination initiated by the other state of an insurer domiciled in Texas or of a licensed managing general agent an estimate of the examination costs to be charged to the insurer or agent to be examined, a copy of any contract between the person and the state regulatory body that initiated the examination and a letter authorizing the examination, and a list of the previous examinations conducted on the same insurer on behalf of any state within the last three years. The bill requires the department, on accepting a person's registration, to send written confirmation of the acceptance to the person, the insurer or agent to be examined, and the state regulatory body that initiated the examination.

**Senate Bill 1291**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Taylor, Larry

Senate Bill 1291 amends the Insurance Code to require the senior associate commissioner of the Texas Department of Insurance (TDI) program through which TDI regulates the financial and operating conditions of, and issues licenses to, domestic and foreign insurers and other entities regulated by TDI to submit to the commissioner of insurance an annual budget of examination costs. The bill specifies that only the commissioner is authorized to adopt and approve such a budget, and it requires the commissioner to approve the budget by a certain date. The bill prohibits the financial program from directly or indirectly causing the TDI operating account to incur any examination costs and authorizes TDI to set the amounts of fees as necessary to carry out the functions of the financial examinations and actuarial divisions relating to the examination of insurers and other regulated entities and to fund the budget of examination costs.

Previous law required an assessment or fee collected under provisions governing examination expenses to be deposited to the credit of the TDI operating account. Senate Bill 1291 instead requires an assessment or fee related to the examination of insurers and other regulated entities to be deposited to the credit of an account with the Texas Treasury Safekeeping Trust Company

to be used exclusively to pay examination costs and requires other revenue to be deposited to the credit of the TDI operating account.

**Senate Bill 1431**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Smithee

Senate Bill 1431 amends Insurance Code provisions relating to the functions of insurance holding company systems. In addition to other provisions, the bill provides that a disclaimer of affiliation with an authorized insurer filed with the commissioner of insurance is 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; authorizes the commissioner to disallow the disclaimer if the commissioner at any time determines that the information disclosed in the disclaimer is incomplete or inaccurate or is no longer accurate; and authorizes the commissioner, in granting a waiver, to waive insurance holding company system requirements and require reasonable controls and safeguards. The bill establishes the confidentiality of certain information disclosed to the commissioner. The bill authorizes the commissioner to participate in a supervisory college relating to a domestic insurer that is part of an insurance holding company system with international operations for specified purposes and sets out requirements for such a supervisory college.

Senate Bill 1431 specifies the required format of the registration statement of an insurer registering as a member of an insurance holding company system. The bill requires an insurer, on the commissioner's request, to include with the statement a copy of all financial statements for the insurance holding company system and all affiliates of the holding company system; specifies the types of financial statements that satisfy this requirement; and specifies the conditions under which an insurer is required to submit financial reports for certain privately owned affiliates. The bill requires the ultimate controlling person of certain insurers to file an annual enterprise risk report.

Senate Bill 1431 requires an agreement entered into by insurers within an insurance holding company system to include all provisions required by rule of the commissioner; clarifies the transactions and agreements for which written notice is required to be given by a domestic insurer to the commissioner; and sets out the information required to be included in such notice. The bill requires a person seeking to initiate a divestiture of control of a domestic insurer to meet the requirements under state law for the acquisition or exercise of control of a domestic insurer and expands those requirements. The bill makes provisions relating to the commissioner's approval of an acquisition of control apply to the approval of a change or divestiture of control; adds to the factors that the commissioner is required to consider in approving or denying a divestiture of control; and authorizes the commissioner, under certain circumstances, to participate in a public hearing held on a consolidated basis.

Senate Bill 1431 authorizes the commissioner to order an insurer registered as part of an insurance holding company system to produce information not in the possession of the insurer if the insurer can obtain access to the information and requires the insurer to provide the commissioner with an explanation of any information the insurer is unable to obtain. The bill authorizes the commissioner after notice and hearing to impose certain penalties on the insurer if it appears to the commissioner that the insurer's explanation is without merit. The bill specifies that, if it appears to the commissioner that a person has committed a violation of provisions relating to the control, acquisition, or merger of a domestic insurer that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for issuing certain orders relating to the financial condition or supervision and conservatorship of an insurer.

**Senate Bill 1433**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Smithee

Senate Bill 1433 amends the Insurance Code to create an exception to the requirement that any formal delinquency proceeding against a person under the Insurer Receivership Act be commenced by filing a petition in the name of the commissioner or the Texas Department of Insurance for an action authorized by the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill authorizes a receiver to appoint a special deputy for purposes of rehabilitating or liquidating an insurer without soliciting competitive bids in the event of an emergency and specifies the conditions that constitute such an emergency. The bill expands the grounds for the filing of a petition for an order of rehabilitation or liquidation of an insurer domiciled in Texas or an unauthorized insurer to include a court's determination relating to the default of a company under the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill authorizes the rehabilitator of an insurer to exercise all the powers possessed on August 31, 2005, by a receiver appointed for the purpose of rehabilitating an insurer. The bill includes claims for benefits under a health care plan issued by a health maintenance organization and claims under insurance policies or contracts for benefits issued by an unauthorized insurer among the unsecured claims classified as Class 2 claims for purposes of the priority of payment of unsecured claims.

**Senate Bill 1598**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Smithee

Senate Bill 1598 amends the Insurance Code to expand the activities that are exempt from fire extinguisher service and installation licensing provisions to include the inspection of a firm's portable fire extinguisher by a person who is specially trained to perform portable fire extinguisher inspections and who is under contract with the firm for that purpose.

**Senate Bill 1806**

**Effective:** 5-28-11

**Senate Author:** Lucio

**House Sponsor:** Miller, Sid

Senate Bill 1806 amends the Insurance Code to authorize the commissioner of insurance to assess a fee against an agent who files a surplus lines insurance policy with the stamping office after the filing deadline prescribed by law and sets the amount of the fee as follows:

- for an agent who files a policy on or before the 180th day after the policy's effective date or issue date and who, in the calendar year immediately preceding the year in which the policy is late-filed, has filed not more than five percent of the policies the agent was required to file after the prescribed filing deadline, \$50 for each late-filed policy, or, for an agent who filed more than five percent of the policies the agent was required to file after the prescribed filing deadline, \$100 for each late-filed policy;
- for an agent who files a policy after the 180th day but before the 365th day after the policy's effective date or issue date and who, during the immediately preceding calendar year, filed not more than two percent of the policies that the agent was required to file after the prescribed filing deadline, \$200 for the late-filed policy; or
- 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, \$50 for each late-filed policy.

Senate Bill 1806 establishes the conditions under which an agent who files a surplus lines policy after the prescribed filing deadline is subject to certain disciplinary and enforcement actions, sanctions, and administrative penalties and sets out requirements for the Texas Department of Insurance's notice to an agent of the amount of fees assessed for late-filed policies.

## Life and Health

### House Bill 438

**Effective:** 9-1-11

**House Author:** Thompson et al.

**Senate Sponsor:** Carona et al.

House Bill 438 amends the Insurance Code to require certain health benefit plans that provide coverage for cancer treatment to 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 medications that are covered as medical benefits by the plan. The bill sets out provisions relating to prior authorization and for cost sharing.

### House Bill 755

**Effective:** 9-1-11

**House Author:** Cook

**Senate Sponsor:** Nichols

House Bill 755 amends the Insurance Code to include in the definition of “dependent,” with respect to an individual eligible to participate in the state employee group benefits program, an individual’s child who is at least 25 years old, who the Employees Retirement System of Texas board of trustees determines lives with or has the child’s care provided by the individual on a regular basis, if the child’s mental or physical condition is such that the child is dependent on the individual for care or support, the child’s coverage has not lapsed, and, on the date the individual became eligible to participate in the group benefits program, the child was enrolled as the individual’s dependent in health benefits coverage under the Texas Public School Retired Employees Group Benefits Act, the Texas School Employees Uniform Group Health Coverage Act, or the State University Employees Uniform Insurance Benefits Act or in continuation of that dependent coverage under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 and its subsequent amendments.

### House Bill 1032

**Effective:** 9-1-11

**House Author:** Smithee

**Senate Sponsor:** Davis

House Bill 1032 amends the Insurance Code to require an annuity contract, with certain exceptions, to include a rescission period of at least 20 days after the date the contract is delivered, during which time the purchaser may rescind the contract and receive an unconditional refund of premiums paid for the contract, including any contract fees or charges.

### House Bill 1405

**Effective:** 9-1-11

**House Author:** Smithee et al.

**Senate Sponsor:** Deuell

House Bill 1405 amends the Insurance Code to authorize a health benefit plan issuer to 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 or all individuals covered by identical or substantially identical plans, and the issuer provides written notice of the modification to the commissioner of insurance and the affected plan sponsor, enrollee, or plan holder, as applicable. The bill specifies the actions included among the modifications affecting drug coverage that require notice. The bill makes provisions governing the health benefit plan coverage of prescription drugs specified by one or more drug formularies applicable both to an individual insurance policy or insurance agreement and to a small or large employer group contract or similar coverage document. The bill exempts from such provisions the child health plan program or the health benefits plan for children and a Medicaid managed care program or a Medicaid medical assistance program.

**House Bill 1772**  
**Effective:** 9-1-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Duncan

House Bill 1772 amends the Insurance Code to add provisions relating to exclusive provider benefit plans, which are health insurance plans under which an insurer excludes benefits to an insured for some or all services provided by a physician or health care provider who is not a preferred provider. Among other provisions, the bill 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 of quality of care that are consistent with prevailing professionally recognized standards of care or practice and sets out requirements for such procedures. The bill requires the issuer of an exclusive provider benefit plan, on the request of a preferred provider and 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 to fully reimburse the nonpreferred provider at the usual and customary rate or at a rate agreed to by the issuer and the nonpreferred provider. The bill requires the issuer of an exclusive provider benefit plan, if a nonpreferred provider provides emergency care to an enrollee in the 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.

House Bill 1772 authorizes the commissioner of insurance to determine the quality and adequacy of a network used by an exclusive provider benefit plan and establishes that an insurer is subject to a qualifying examination of the insurer's exclusive provider benefit plans and subsequent quality of care examinations by the commissioner at least once every five years. The bill requires an insurer that offers an exclusive provider benefit plan to provide to a current or 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.

**House Bill 2172**  
**Effective:** 9-1-11

**House Author:** Torres  
**Senate Sponsor:** Van de Putte

Current law authorizes the extension of insurance under a group life insurance policy to cover a natural or adopted child or grandchild of each individual eligible to be insured under the policy if certain requirements are met. House Bill 2172 amends the Insurance Code to remove the requirements that such a child or grandchild be unmarried and that a grandchild be a dependent of the insured for federal income tax purposes at the time the application for coverage of the child is made. The bill authorizes such a policy to be extended to cover a child or grandchild who is older than 25 years of age if an older age is stated in the policy.

**House Bill 2277**  
**Effective:** 9-1-11

**House Author:** Eiland  
**Senate Sponsor:** Williams

House Bill 2277 amends Insurance Code provisions relating to life settlements and the sale, exchange, or replacement of life insurance and annuity contracts. The bill repeals Insurance Code provisions relating to the registration of a business engaged in the business of life or viatical settlements and instead requires a person, to act as a life settlement contract provider or broker with an owner who is a Texas resident, to hold a license from the Texas Department of Insurance (TDI). Among other provisions, the bill sets out licensing requirements; the conditions under which the commissioner of insurance is authorized to suspend, revoke, or refuse to renew a license; requirements for contract forms, disclosure forms, and advertisements; reporting requirements; and the privacy of insureds. The bill establishes the commissioner's investigative authority and the cost of examinations of a person engaged in the business of life settlements. The bill requires a broker, or provider if no broker is involved in an application, as appropriate,



to make specified disclosures to the owner of a policy or the provider, as appropriate. The bill establishes general rules that govern life settlement contracts and authorizes the commissioner to adopt rules relating to such contracts. The bill sets out specific prohibited practices, including fraud, and regulatory enforcement measures and penalties.

House Bill 2277 revises suitability requirements for life annuity products by, among other requirements, requiring an insurance agent or the insurer if an agent is not involved, in recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, to have a reasonable basis to believe specified information relating to the suitability of the recommendation for the particular consumer; prohibiting an insurer, with certain exceptions, 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; and requiring an insurer's issuance of an annuity, if the insurer is exempt for that requirement, to be reasonable under all circumstances actually known to the insurer at the time the annuity is issued. The bill also requires an agent or insurer to keep certain records at the time of sale of an annuity. The bill revises insurer supervision system requirements. The bill clarifies the applicability of provisions relating to the compliance of annuity sales with certain national standards.

House Bill 2277 revises agent training and education requirements. The bill prohibits an agent from soliciting the sale of an 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 an agent who engages in the sale of annuity products to complete a one-time training course approved by TDI and provided by a continuing education provider; and sets out requirements for such training.

House Bill 2277 makes an insurer responsible for compliance with suitability requirements for certain annuity transactions and revises the list of actions the commissioner is authorized to take if a violation occurs. The bill requires, rather than authorizes, the commissioner to reduce or eliminate a sanction for a violation of suitability requirements otherwise applicable if corrective action for the consumer was taken promptly by the agent or insurer after a violation was discovered and adds as an alternative trigger for such reduction or elimination that the violation was not part of a pattern or practice.

House Bill 2277 requires an insurer that offers to waive surrender charges under a contract when the contract holder exchanges that contract for another annuity contract issued by the same insurer or affiliate to provide reasonable notice of that offer to the insurer's prospective or current contract holders.

**House Bill 2292**  
**Effective:** 9-1-11

**House Author:** Hunter et al.  
**Senate Sponsor:** Van de Putte

House Bill 2292 amends Insurance Code provisions relating to the payment of claims to and the audit of a pharmacy and pharmacist. Previous law required a health maintenance organization (HMO) or other health insurer that affirmatively adjudicates an electronically submitted pharmacy claim to pay the total amount of the claim not later than the 21st day after the date the claim was affirmatively adjudicated. The bill shortens that deadline to the 18th day after the date the claim was affirmatively adjudicated; expands the applicability of the deadline to include claims submitted to a pharmacy benefit manager that administers pharmacy claims on behalf of such an HMO or health insurer; specifies that the payment of the claim be through electronic funds transfer; and makes the deadline to pay an affirmatively adjudicated pharmacy claim that is not electronically submitted not later than the 21st day after the date on which the claim was affirmatively adjudicated. The bill prohibits such an HMO, health insurer, or pharmacy benefit manager from using extrapolation to complete an audit of a provider who is a pharmacist

or pharmacy. The bill prohibits an HMO or health insurer from requiring an extrapolation audit of a pharmacist or pharmacy as a condition of the pharmacist's or pharmacy's participation in the HMO or health insurer's contract, network, or program.

**House Bill 3017**  
**Effective:** 6-17-11

**House Author:** Smithee  
**Senate Sponsor:** Duncan

House Bill 3017 amends the Insurance Code to prohibit an evidence of coverage of benefits provided by a health maintenance organization from containing a discretionary clause provision and to prohibit an insurer from using certain life and health coverage policy documents in Texas if the document contains a discretionary clause. 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 health maintenance organization, or a provision specifying:

- that an enrollee or other claimant may not contest or appeal a denial of a benefit;
- that certain interpretations or decisions by a health maintenance organization are 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 state law.

**House Bill 3161**  
**Effective:** 6-17-11

**House Author:** Hancock  
**Senate Sponsor:** Van de Putte

House Bill 3161 amends the Insurance Code to authorize a wholly owned domestic insurer authorized to transact the business of life, health, or accident insurance or an affiliated company organized or authorized to conduct business under state law to organize a limited purpose subsidiary life insurance company that is in turn authorized to reinsure risks of the organizing company and an affiliated company. The bill sets out requirements for such a subsidiary company's organizational documents and other related provisions.

**Senate Bill 554**  
**Effective:** 9-1-11

**Senate Author:** Carona et al.  
**House Sponsor:** Lozano

Senate Bill 554 amends the Insurance Code to prohibit a contract between a health maintenance organization and a dentist or between an insurer and a dentist from limiting the fee the dentist may charge for a service that is not a covered service.

**Senate Bill 567**  
**Effective:** 9-1-11

**Senate Author:** Williams  
**House Sponsor:** Hancock

Senate Bill 567 changes the name of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association to the Texas Life and Health Insurance Guaranty Association and establishes that the Texas Life and Health Insurance Guaranty Association is the successor to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association in all respects.

Senate Bill 567 amends the Insurance Code to exclude from the types of policies and contracts for which the Texas Life and Health Insurance Guaranty Association Act provides coverage a policy or contract providing a hospital, medical, prescription drug, or other health care benefit under Medicare Part C or D or a regulation adopted under those federal statutes. The bill authorizes the board of directors of the association or a committee of the board to meet by 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 and sets out provisions relating to such a meeting.

Current law caps the total amount of assessments on a member insurer of the association for each account maintained by the association. Senate Bill 567 specifies that the cap percentage is based on the insurer's average annual premiums on the policies covered by the account during the applicable period and that the cap applies to the total amount of assessments in one calendar year. Current law excludes, among other coverages, the present value under certain annuity benefits in excess of a capped amount from being a contractual obligation under which the Texas Life and Health Insurance Guaranty Association is required to provide payment. The bill raises the amount of the cap from \$100,000 to \$250,000. The bill changes the amount that the association is required to remit to the domiciliary receiver out of the deposit paid to the association on the entry of a final order of liquidation or order approving a rehabilitation plan of an impaired or insolvent insurer.

Senate Bill 567 authorizes the association to elect to succeed to the rights of an insolvent insurer under a contract of reinsurance to which the insolvent insurer is a party to a specified extent, and the bill requires the association, as a condition of making such an election, to pay all unpaid premiums due under the reinsurance contract for coverage relating to a period before and after the date the association is obligated to provide coverage.

**Senate Bill 579**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Hancock

Senate Bill 579 amends a provision of the Insurance Code limiting the amount of an initial guaranteed death benefit in the coverage or combination of coverages that a licensed funeral prearrangement life insurance agent may write. The bill changes the limit on the total benefit amount from \$15,000 on any life to the total cost of the prepaid funeral benefits purchased under a prepaid funeral contract and provides an exception to that limit under Finance Code provisions governing prepaid funeral services.

**Senate Bill 822**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Zerwas

Senate Bill 822 amends the Insurance Code to establish that two or more physicians on the medical staff of or teaching at a medical school or medical and dental unit constitute a medical group for purposes of the expedited credentialing process for a physician who joins an established medical group that has a current contract in force with a managed care plan.

**Senate Bill 859**  
**Effective:** 6-17-11

**Senate Author:** Duncan et al.  
**House Sponsor:** Smithee

Senate Bill 859 amends the Insurance Code to make certain single-employee businesses eligible for participation in a health group cooperative and authorizes a health group cooperative to allow eligible single-employee businesses to join the cooperative and enroll in health benefit plan coverage by filing an election with the commissioner of insurance to permit such action. The bill authorizes a cooperative 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 cooperative based on its membership after the election has become effective. The bill requires a cooperative that files an election to permit participation and enrollment in the cooperative's health benefit plan coverage during the initial enrollment and annual open enrollment periods by each eligible single-employee business that elects to participate and agrees to satisfy applicable requirements. The bill authorizes a cooperative to rescind its election under specified circumstances and sets out requirements relating to such a rescission. The bill prohibits a cooperative consisting only of

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small employers that elects to restrict its membership from including an eligible single-employee business.

Senate Bill 859 authorizes a health group cooperative to file with the commissioner an election to treat each participating employer within the cooperative as a separate employer for purposes of rating small and large employer health benefit plans, requires an electing cooperative to provide notice of the election to all participating and prospective employers, and establishes the effective date of such an election. The bill requires the commissioner to adopt rules governing the eligibility of a single-employee business to participate in a cooperative.

Senate Bill 859 also authorizes the commissioner to develop by rule procedures to allow an employer to make financial contributions to or premium payments for an employee's 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.

## Property and Casualty

### **House Bill 2093**

**Effective:** 1-1-12

**House Author:** Thompson

**Senate Sponsor:** Van de Putte

House Bill 2093 amends the Insurance Code to require a consolidated insurance program that provides general liability insurance coverage to provide completed operations insurance coverage for a policy period of not less than three years. The bill makes certain construction contract provisions providing indemnity or requiring additional insured coverage void and unenforceable to the extent the provisions indemnify the unlawful actions of the indemnitee or indemnitee's agent or provide prohibited coverage. The bill specifies the applicability of and exemptions from its provisions, prohibits its provisions from being waived by contract or otherwise, and sets out related provisions.

### **House Bill 2382**

**Effective:** 9-1-11

**House Author:** Murphy et al.

**Senate Sponsor:** Estes

Current law requires an insurer to renew a property and casualty insurance policy unless the insurer has provided the insured timely written notice of nonrenewal. House Bill 2382 amends the Insurance Code to require, notwithstanding an insurer's failure to comply with the above requirement, that the policy terminate on the effective date of any replacement or succeeding insurance policy with another carrier with respect to an insured personal automobile, home, farm, ranch, dwelling, duplex, apartment, or other real or personal property.

### **House Bill 2408**

**Effective:** 9-1-11

**House Author:** Darby et al.

**Senate Sponsor:** Harris

House Bill 2408 amends Insurance Code provisions relating to title insurance. The bill requires the Texas Department of Insurance (TDI) to notify a title insurance agent license renewal applicant, an escrow officer's license or license renewal applicant, or a licensed title insurance agent appointed to represent an additional title insurance company and such company, as applicable, of any deficiencies in the application or notice of appointment. The bill prescribes deadlines for the issuance of such notices, approval of such applications, and the notification of applicable persons. The bill sets out the conditions under which TDI is authorized to reject, delay, or deny an application or notice of appointment. The bill requires TDI to timely notify a license holder of a disciplinary action or enforcement action against the license holder and establishes

that a disciplinary or enforcement action is automatically dismissed with prejudice unless TDI timely serves the required hearing notice.

House Bill 2408 prohibits the requirement that certain provisions insuring a loss from damage resulting from mineral extraction or development be included with a title insurance policy, prohibits the charge of an additional premium for such an endorsement under specified conditions, and prohibits a reduction to or credit on a premium charge that is based on an exclusion of or exception to a mineral estate in a title insurance policy.

Current law requires the commissioner of insurance to order a public hearing to consider changing a premium rate at the request of a title insurance company or of the office of public insurance counsel. House Bill 2408 also requires the commissioner to order such a hearing at the request of an association composed of a specified percentage of title insurance agents or title insurance companies licensed or authorized by TDI. Previous law required the commissioner to hold a biennial public hearing to consider adoption of premium rates and other matters relating to title insurance regulation. The bill instead requires the commissioner to hold such a hearing not earlier than July 1 after the fifth anniversary of the closing of a requested rate change or rate setting hearing and revises provisions relating to such a hearing.

House Bill 2408 authorizes TDI to accept gifts, grants, and donations to enable TDI employees to participate in educational events and for other educational purposes related to title insurance and authorizes the commissioner to adopt rules related to a gift, grant, or donation so accepted. The bill establishes that a title insurance company or a title insurance agent is not prohibited from providing continuing education courses at market rates, regardless of whether participants receive credit hours. The bill requires the contents of the statistical report submitted to TDI annually by each title insurance company and title insurance agent to be established in a rulemaking hearing.

**House Bill 2604**  
**Effective:** 6-17-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Harris

House Bill 2604 amends the Insurance Code to authorize a title insurance agent to maintain a solvency account to accrue and hold unencumbered assets. The bill establishes requirements relating to the minimum amount for the initial deposit in a solvency account, authorizing the deposit to be an amount less than the amount of unencumbered assets with a market value in excess of liabilities required to be maintained by an agent in accordance with current law. The bill establishes requirements relating to the location, access to, and audit of a solvency account; solvency account deposits; and interest accrued in a solvency account. The bill sets out powers and duties of the commissioner of insurance, including any required or authorized orders relating to access or release of funds in such an account under certain conditions.

House Bill 2604 authorizes an agent, if an 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 the Texas Department of Insurance for the release of the agent's solvency account. The bill requires an agent who closes a home office issue transaction in which a title insurance company issues a policy of title insurance and who remits premium to the title insurance company to make the deposit required for a solvency account. Previous law required the annual audit of escrow accounts, for purposes of the certification of unencumbered assets, to be accompanied by certification by a certified public accountant that the agent has the appropriate unencumbered assets in excess of liabilities. The bill instead requires the audit to be accompanied by a certification by the title insurance agent or direct operation.



## Insurance

### **House Bill 2655**

**Effective:** 9-1-11

**House Author:** Sheets

**Senate Sponsor:** Carona

House Bill 2655 amends the Insurance Code to change the date by which an insurer is required to provide a policyholder with a written explanation of a change made by an endorsement to a policy form that reduces coverage that would otherwise be provided under certain property and casualty insurance policies before the insurer is authorized to use the endorsement. The bill changes that date from the effective date of the change to not later than the 30th day before the date on which the policy expires. The bill creates an exception to the requirement that an insurer renew an insurance policy at the request of the insured on the expiration of the policy for an insurer that mails written notice of renewal with written notice of a change in coverage by the deadline.

### **Senate Bill 322**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Deshotel

Senate Bill 322 amends the Insurance Code to establish the conditions under which a title insurance company is authorized 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 Texas. The bill requires a title insurance company acquiring reinsurance to meet certain notification requirements before acquiring the reinsurance, increases the minimum amount of combined capital and surplus the title insurance company from which the reinsurance is acquired must have, and prohibits a title insurance company from insuring against certain extra hazardous coverages.

### **Senate Bill 416**

**Effective:** 5-10-11

**Senate Author:** Deuell

**House Sponsor:** Smithee

Senate Bill 416 amends the Insurance Code to authorize the commissioner of insurance to waive the limit on the amount of outstanding total liability that a mortgage guaranty insurer is authorized to have at any time under the insurer's aggregate mortgage guaranty insurance policies, at the written request of the 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. The bill sets out relevant factors the commissioner may consider in making this finding and authorizes the commissioner, with respect to the quality and liquidity of the insurer's investments in affiliates, to treat an investment in an affiliate as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders.

Senate Bill 416 restricts a waiver to a specified period; subjects a waiver to any terms and conditions the commissioner considers best suited to restoring the insurer's capital, surplus, and contingency reserve to the required level; and authorizes an insurer to apply to extend the waiver. The bill prohibits the commissioner from allowing the mortgage guaranty insurer, under any circumstances, 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.

### **Senate Bill 425**

**Effective:** 9-1-11

**Senate Author:** Carona et al.

**House Sponsor:** Hancock

Senate Bill 425 amends provisions of the Insurance Code relating to property and casualty certificates of insurance issued on property or casualty operations or a risk located in Texas and the approval of property and casualty certificate of insurance forms by the Texas Department of Insurance (TDI). The bill prohibits a person, property or casualty insurer, or agent, as applicable,

from using or issuing a certificate of insurance, changing a previously approved certificate of insurance form, or changing the insurance coverage referenced on the certificate unless the form or change has been filed with and approved by TDI. The bill prescribes the statements to be included on a certificate of insurance form and sets out related provisions for form approval. The bill prohibits a certificate of insurance from conveying new or additional rights beyond what the referenced policy or any executed endorsement of insurance provides.

Senate Bill 425 authorizes the commissioner of insurance, if the commissioner has reason to believe that an insurer or agent has violated or is threatening to violate the bill's provisions or a related rule, 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. The bill sets out provisions relating to a hearing on whether to issue a cease and desist order and the penalties to which a person who engages in prohibited acts is subject. The bill authorizes the commissioner to adopt rules and authorizes TDI to collect a fee for the filing of a certificate of insurance.

**Senate Bill 735**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Smithee

Senate Bill 735 amends the Insurance Code to prohibit 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 or a fraudulent transfer. The bill authorizes the commissioner of insurance by rule to designate coverages that violate this prohibition. The bill prohibits a title insurance company from engaging in the business of title insurance in Texas if the company provides anywhere in the United States insurance of the type prohibited above, except to the extent that the laws of another state require the company to provide that type of insurance.

**The summaries for the following bills are in the listed chapters:**

House Bill 335 - State Government

Senate Bill 155 - Public Education

Senate Bill 1846 - Civil Remedies and Procedures



## Juvenile Justice

This chapter covers legislation relating to juvenile justice generally, juvenile delinquency, truancy, county juvenile boards, juvenile detention and correctional facilities, and juvenile court proceedings, as well as the functions and duties of the newly created Texas Juvenile Justice Department and the Texas Juvenile Justice Board. Legislation relating to adult and juvenile offenders is in the **Criminal Justice** chapter, and legislation relating to family law, including child custody and support, adoption, foster care, and family violence, is in the **Family Law** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 350**  
**Effective:** 9-1-11

**House Author:** Walle  
**Senate Sponsor:** Van de Putte

House Bill 350 amends the Code of Criminal Procedure to authorize a justice or judge to require a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor occurring in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense 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. Among other provisions, the bill provides for the defendant's supervision during the community service work or tutoring program by the respective entity or program, the maximum hours of service or tutoring per week, and the rate at which a defendant discharges the fines or costs by performing service or attending a program.

**House Bill 592**  
**Effective:** 6-17-11

**House Author:** Pitts  
**Senate Sponsor:** Birdwell

House Bill 592 amends the Education Code to exempt a county with a population greater than 125,000 from provisions requiring a juvenile board of a county with a population greater than 125,000 to develop a juvenile justice alternative education program and requiring every expelled student in such a county who is not detained or receiving treatment under a juvenile court order to be enrolled in such a program if the county has a population of 180,000 or less, is adjacent to two counties that each have a population of more than 1.7 million, and has seven or more school districts located wholly within the county's boundaries. The exemption applies beginning with the 2011-2012 school year.

**House Bill 961**  
**Effective:** 6-17-11

**House Author:** Turner  
**Senate Sponsor:** Hinojosa

House Bill 961 amends the Code of Criminal Procedure and the Family Code to make confidential and prohibited from being disclosed to the public, with certain exceptions, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for a fine-only misdemeanor other than a traffic offense or whose conviction for such a misdemeanor is affirmed. The bill authorizes disclosure of such confidential information for inspection by certain specified persons and repeals provisions of the Government Code to make conforming changes relating to the confidentiality of certain child records.

House Bill 961 amends the Family Code to lower from 21 years of age to 19 years of age the minimum age at which a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony is eligible for a court order sealing the records concerning the person. The bill lowers from 21 years of age to 17 years of age the minimum age at which a person is eligible for automatic restriction of juvenile case records submitted to the juvenile justice information system.

**House Bill 968**  
**Effective:** 6-17-11

**House Author:** Strama  
**Senate Sponsor:** Watson

House Bill 968 amends the Education Code to expand the conditions requiring a student's removal from class and placement in a disciplinary alternative education program (DAEP) based on off-campus conduct occurring while the student is not in attendance at a school-sponsored or school-related activity to include the student's deferred prosecution for a felony offense of aggravated robbery; a court or jury finding that the student has engaged in delinquent conduct defined as the felony offense of aggravated robbery; or reasonable belief by the school district superintendent or the superintendent's designee that the student has engaged in a felony offense of aggravated robbery. The bill also expands the conditions authorizing a student's expulsion and placement in a juvenile justice alternative education program or DAEP, as applicable, after due process, to include a deferred prosecution or a court or jury finding as described above as well as a charge, referral to juvenile court, placement on probation or receipt of deferred adjudication, conviction, or arrest for the felony offense of aggravated robbery if the school district board of trustees or the board's designee determines that the student's presence in the classroom is a threat to safety, detrimental to the educational process, or not in other district students' best interest.

Current law authorizes the expulsion of a student if the student, while placed in a DAEP, continues to engage in serious or persistent misbehavior that violates the school district's student code of conduct. House Bill 968 instead authorizes the expulsion of a student if the student, while placed in a DAEP, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions and establishes the behaviors that constitute serious misbehavior.

**House Bill 1224**  
**Effective:** 6-17-11

**House Author:** Reynolds  
**Senate Sponsor:** Huffman

House Bill 1224 amends the Education Code to authorize the expulsion of a public school student who engages in conduct that contains the elements of the offense of breach of computer security 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 commits a breach of any other computer, computer network, or computer system.

**House Bill 1907**  
**Effective:** 9-1-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 1907 amends the Code of Criminal Procedure to revise the requirements for certain entities in notifying a public or private school concerning certain offenses committed by students. Among other provisions, the bill changes the deadlines by which certain criminal justice and law enforcement officials and entities must notify a school of a student's arrest, conviction, adjudication, referral to juvenile court, or requirement to register as a sex offender, for certain offenses, and by which a school must notify certain school district employees and instructional and support personnel having direct supervisory responsibility or regular contact with the student of those notices. The bill requires any failure by these officials and entities to provide a required notification to be reported to the appropriate specified oversight entity. The bill establishes content requirements for oral and written notifications concerning certain offenses committed by students.



**House Bill 1964**  
**Effective:** 9-1-11

**House Author:** Villarreal et al.  
**Senate Sponsor:** Van de Putte

House Bill 1964 amends the Code of Criminal Procedure to authorize a justice or 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 for certain governmental or nonprofit organizations. The bill provides for the maximum number of service hours per week that may be required of a defendant and for the defendant's supervision during community service, establishes liability immunity for certain local officials and employees in connection with such community service, and provides for the administrative and other support for supervising a defendant performing the community service. The bill clarifies the special programs in which a justice or municipal court may require a child who commits an offense within the court's jurisdiction to participate.

**House Bill 2015**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Van de Putte

House Bill 2015 amends the Family Code to classify conduct constituting a prostitution offense as conduct indicating a need for supervision under the Juvenile Justice Code. The bill requires a juvenile court to order the sealing of certain records concerning a child who is found to have engaged in such conduct indicating a need for supervision or who is taken into custody to determine whether the child engaged in such conduct and authorizes a prosecuting attorney or juvenile probation department to maintain until the 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.

**House Bill 2119**  
**Effective:** 6-17-11

**House Author:** Madden  
**Senate Sponsor:** Whitmire

House Bill 2119 amends the Health and Safety Code to make contingent on an appropriation by the legislature specifically for the purpose the requirement that the Texas Correctional Office on Offenders with Medical or Mental Impairments provide a service or program to address prevention, intervention, and continuity of care for juveniles with mental health and substance abuse disorders and a youth assertive community treatment program in Tarrant County. The bill authorizes the office to provide such a service or program using other appropriations available for that purpose if the legislature does not appropriate money specifically for that purpose.

**House Bill 2337**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 2337 amends the Family Code to specify that provisions regarding the admissibility of a child's statement and the waiver of any right granted to a child by state or federal law in a proceeding under the Juvenile Justice Code do not preclude the admission of a statement made by the child if the statement, without regard to whether the statement stems from a certain custodial interrogation of the child, is recorded by an electronic recording device and is obtained in another state in compliance with the state's laws or Texas laws or obtained by a federal law enforcement officer in Texas or another state in compliance with federal laws.

**House Bill 2496**  
**Effective:** 9-1-11

**House Author:** Gonzalez et al.  
**Senate Sponsor:** Carona

House Bill 2496 amends the Family Code to establish a teen dating violence court program designed to educate children who engage in dating violence and deter them from engaging in that conduct. The bill authorizes a juvenile court, on the recommendation of the prosecuting attorney, to defer adjudication proceedings for not more than 180 days if a child is a first offender who

is alleged to have engaged in conduct involving dating violence that violated a misdemeanor-grade state penal law, requires such a child to complete a teen dating violence court program approved by the court and applicable county commissioners court not later than the last day of the deferral period and appear in court once a month for monitoring purposes, and requires the court to dismiss the case with prejudice on the child's successful completion of the program. The bill authorizes a court to require a child who participates in a teen dating violence court program to pay a fee not to exceed \$10 to cover the costs of administering the program and an additional fee of \$10 to cover the cost to the program for performing its duties and requires the court to track certain program-related statistics. The bill amends the Government Code to make a conforming change relating to the program fees.

**House Bill 2633**

**Effective:** 6-17-11

**House Author:** Madden

**Senate Sponsor:** Whitmire

House Bill 2633 amends the Human Resources Code to include the board of the Texas Youth Commission (TYC) among the entities and persons to whom the office of inspector general of the TYC is required to deliver a report concerning the results of any investigation conducted by the office as required by state law and to whom the chief inspector general is required to deliver a quarterly report concerning the operations of the office of inspector general. The bill requires the board, rather than the executive commissioner of TYC, to select a commissioned peace officer as chief inspector general and specifies that the chief inspector general operates directly under the authority of the board and that only the board has the authority to discharge the chief inspector general for cause. The bill removes the executive director of TYC from the entities and persons to whom the office of the inspector general is required to immediately report certain problems relating to the administration of a TYC program or operation or interferences with an office investigation.

**House Bill 3829**

**Effective:** 6-17-11

**House Author:** Anderson, Charles "Doc"

**Senate Sponsor:** Birdwell

House Bill 3829 amends the Human Resources Code to authorize the McLennan County Juvenile Board to establish and administer a local enrichment of juvenile services program consistent with policies adopted by the juvenile board and provides for a special fund for any gift, grant, or donation received by the board.

**Senate Bill 49**

**Effective:** 6-17-11

**Senate Author:** Zaffirini et al.

**House Sponsor:** Guillen

Senate Bill 49 amends the Education Code to require a school district to provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The bill requires such notice to include information regarding all methods available for completing the coursework and to state that the methods are available at no cost to the student.

**Senate Bill 61**

**Effective:** 6-17-11

**Senate Author:** Zaffirini

**House Sponsor:** Walle

Senate Bill 61 amends the Code of Criminal Procedure to authorize the governing body of a governmental entity that employs a juvenile case manager, as an alternative to a court that employs a juvenile case manager, to pay the salary and benefits of the juvenile case manager from the juvenile case manager fund. The bill expands the allowable uses of a juvenile case manager fund and prohibits such a fund from being used to supplement the income of an employee

whose primary role is not that of a juvenile case manager. The bill requires the governing body of the governmental entity that employs a juvenile case manager to adopt reasonable rules for juvenile case managers that provide a code of ethics, appropriate educational preservice and in-service training standards, and training in specified areas and requires the employing court or governmental entity to implement the rules. The bill requires the commissioners court or governing body of the municipality that administers a juvenile case manager fund to require periodic review of juvenile case managers to ensure the implementation of the rules.

**Senate Bill 209**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Walle

Current law authorizes a county court, justice court, or municipal court to employ one or more full-time juvenile case managers. Senate Bill 209 amends the Code of Criminal Procedure to also authorize a municipality to employ juvenile case managers and to remove the specification that juvenile case managers are employed full-time. The bill requires a juvenile case manager 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. The bill requires the judge who is assigned to the case to consult with the juvenile case manager who is supervising the case regarding the child's home environment; the child's developmental, psychological, and educational status; the child's previous interaction with the justice system; and any sanctions available to the court that would be in the best interest of the child. The bill exempts from its reporting and consultation requirements a part-time judge or a county judge of a county court that has one or more full-time magistrates appointed to hear matters alleging a truancy violation.

**Senate Bill 653**  
**Effective:** See below

**Senate Author:** Whitmire et al.  
**House Sponsor:** Madden et al.

Senate Bill 653 amends the Human Resources Code to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and to transfer the duties of those agencies to the Texas Juvenile Justice Board and the Texas Juvenile Justice Department, as created by the bill. The bill makes the abolishment and transfer of duties effective December 1, 2011. The bill continues the board and the department until September 1, 2017, and specifies that the goal of the department is, among other priorities, to support a county-based continuum of effective interventions, supports, and services that reduce the need for commitment to state facilities. The bill establishes a transition team to coordinate and oversee, after September 1, 2011, and before December 1, 2011, the transition of services and facilities from TYC and TJPC to the department. The bill establishes an advisory council on juvenile services to assist the department in specified areas. Among other provisions, the bill:

- requires the department to provide prevention and intervention services for at-risk youth who are six years of age or older and younger than 18 years of age and who are subject to compulsory school attendance or under the jurisdiction of the juvenile court and to the family of such an at-risk youth;
- requires that criminal complaints initially referred to the office of the inspector general relating to juvenile probation programs, services, or facilities be sent to the appropriate local law enforcement agency; requires the board to establish by rule policies for the referral of noncriminal complaints; and requires the department to provide immediate notice to a local juvenile probation department of a complaint relating to the probation department's programs, services, or facilities;
- requires the department, if a complaint relates to a claim of abuse, neglect, or exploitation involving a local juvenile probation department, to provide to the probation department

monthly updates on the status of the complaint and immediate updates regarding department decisions;

- requires the department to ensure that its toll-free number for information concerning the abuse, neglect, or exploitation of children in the custody of the department or housed in a local probation facility be in operation and answered by staff 24 hours a day, every day of the year, and requires the department to share the complaints received on the toll-free number with the office of inspector general and the office of the independent ombudsman;
- makes any statement made by a child and any mental health data obtained from the child during the administration of an initial risk and needs assessment instrument inadmissible against the child at any other hearing;
- requires the department to encourage compliance with state and federal educational service standards and rights by facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency and by developing and supporting a plan to ensure continuity of education services to juvenile offenders;
- authorizes the State Board of Education to grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders; requires a local detention, correctional, or residential facility that applies for a charter to provide all educational opportunities and services that a school district is required under state or federal law to provide for students residing in the district through a charter school; and specifies that any charter schools so granted are in addition to the number of charter schools currently capped under state law;
- requires the board to make its best effort to develop regularly updated performance measures of the effectiveness of programs and services on outcomes for youths, public safety, and victims; make those measures publicly available online; and use those measures in determining funding levels for programs and services;
- requires the department to report annually to the governor and the legislature on the department's operations and the condition of probation services in the state during the previous year and to file a report accounting for all funds received and disbursed by the department during the preceding fiscal year;
- expands the requirements for the initial examination of each child committed to the department to include completing the examination and study of the child within three business days, requiring the study to include the child's sex offender and violent offense history, and requiring the department to develop a written treatment plan for the child that outlines the specialized treatment needs identified by the study, that makes recommendations for meeting the child's specialized treatment needs, and that makes an individually tailored statement of treatment goals, objectives, and timelines;
- requires the department to clearly explain to a child who is to be released on supervision from the department's custody the child's comprehensive reentry and reintegration plan and any conditions of supervision and to require such a child to acknowledge and sign a document containing any conditions of supervision;
- expands the duties of the independent ombudsman to include reviewing reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities; analyzing the data contained in the reports to identify trends in complaints; and reporting a possible standards violation by a local juvenile probation department to the appropriate division of the department;
- requires data compiled by a local juvenile probation department related to abuse, neglect, or exploitation of youth, or a complaint regarding juvenile probation programs, that is

required to be reported to the department or local juvenile probation board to be provided to the office of the independent ombudsman;

- specifies that the board directs the department’s inspector general and selects the chief inspector general;
- clarifies the authority of the new department to accept gifts, grants, and donations; and
- repeals provisions authorizing the establishment of a youth boot camp program for children in state custody.

In addition, Senate Bill 653 amends the Family Code to exempt the statewide juvenile information and case management system from provisions relating to statewide technology centers and amends other codes to make conforming changes. Except as otherwise provided, the bill is effective September 1, 2011.

**Senate Bill 957**

**Effective:** 6-17-11

**Senate Author:** Birdwell

**House Sponsor:** Anderson, Charles “Doc”

Senate Bill 957 amends the Health and Safety Code to clarify the terminology used to refer to juveniles served by the Waco Center for Youth as juveniles who are admitted, rather than committed, to the facility.

**Senate Bill 1106**

**Effective:** 6-17-11

**Senate Author:** Harris et al.

**House Sponsor:** Madden

Senate Bill 1106 revises Family Code provisions relating to the interagency sharing of confidential information in the educational and noneducational records of certain juveniles. The bill requires an independent school district or a charter school, at the request of a juvenile service provider, to disclose to that provider confidential information contained in the student’s educational records if the student has been lawfully taken into custody or referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision, regardless of whether other state law makes that information confidential. A record of the disclosed information may not be destroyed by the disclosing district or school before the seventh anniversary of the disclosure.

Senate Bill 1106 requires a juvenile service provider, on request of another juvenile service provider for noneducational record information, to disclose to that provider a multi-system youth’s personal health information or a history of governmental services provided to the multi-system youth and limits the purposes for which a juvenile service provider is authorized to disclose such information.

Senate Bill 1106 authorizes a juvenile service provider to establish an internal protocol for sharing both educational and noneducational record information with other juvenile service providers and to enter into a memorandum of understanding with another juvenile service provider to share information according to those protocols. The bill establishes the confidentiality of the educational and noneducational records shared between agencies and provides for the fee to be paid by a juvenile service provider that requests information to the disclosing juvenile service provider.

Senate Bill 1106 specifies that the Texas Department of Public Safety is not prohibited from disseminating information contained in the juvenile justice information system to a county, justice, or municipal court exercising jurisdiction over a juvenile. The bill makes a videotaped interview of a child made at a children’s advocacy center subject to state disclosure and evidence law and requires a court to deny any request by a defendant to reproduce a videotape of such an interview, provided that the prosecuting attorney makes the videotape reasonably available to the defendant in the same manner as property or material constituting child pornography may be made available to defendants, attorneys, and expert witnesses.



## Juvenile Justice

Senate Bill 1106 amends the Education Code and the Health and Safety Code to make conforming changes.

**Senate Bill 1208**  
**Effective:** 9-1-11

**Senate Author:** Whitmire  
**House Sponsor:** Madden

Senate Bill 1208 amends the Family Code to extend from before a juvenile's 18th birthday to before a juvenile's 19th birthday the period of time during which a juvenile court may place a juvenile on determinate sentence probation.

**Senate Bill 1209**  
**Effective:** 9-1-11

**Senate Author:** Whitmire  
**House Sponsor:** Marquez et al.

Senate Bill 1209 amends provisions of the Family Code, Human Resources Code, and Code of Criminal Procedure relating to the detention of certain juvenile offenders. The bill requires a juvenile board to establish a policy that specifies whether a child who is transferred from a juvenile court to a district court or criminal court for criminal prosecution and who is younger than 17 years of age may be detained in a juvenile facility pending trial. The bill also authorizes the judge of a criminal court having jurisdiction over a child so transferred to order the child to be transferred to another facility and treated as an adult. The juvenile court transferring a child to a district court or criminal court for criminal prosecution, if detention in a certified juvenile detention facility is so authorized, is authorized to order the person to be detained in the facility pending trial or until the criminal court enters an order transferring the child to another facility to be treated as an adult. The bill specifies that a person who has been transferred from a juvenile court to a district court or criminal court for criminal prosecution and who is under 17 years of age is considered a child for purposes of the requirement that a detained child be separated from detained adults. The bill makes a certain exemption from the prohibition against a child being committed or transferred to a penal institution or other facility used primarily for the execution of sentence inapplicable to the detention of a child in a certified juvenile detention facility as ordered by the juvenile court.

Current law establishes the preference that Texas trial courts must give to various hearings and trials. Senate Bill 1209 amends the Government Code to include criminal actions against children who are detained after transfer from a juvenile court for prosecution in a criminal court among those specific criminal actions required to be given preference over other criminal actions.

**Senate Bill 1241**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Jackson

Senate Bill 1241 amends the Family Code to authorize a county, justice, or municipal court exercising jurisdiction in a truancy case to access relevant information contained in the juvenile justice information system.

**Senate Bill 1322**  
**Effective:** 6-17-11

**Senate Author:** Fraser  
**House Sponsor:** Hilderbran

Senate Bill 1322 amends the Human Resources Code to authorize the Kimble County, McCulloch County, Mason County, and Menard County Juvenile Boards and the juvenile boards of one or more counties adjacent to or in close proximity to one of those counties to agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the board. The bill further amends provisions relating only to the Mason County Juvenile Board and its members.

**Senate Bill 1489**

**Effective:** 9-1-11

**Senate Author:** Whitmire et al.

**House Sponsor:** Madden

Senate Bill 1489 amends the Family Code to include among the conditions that must exist for a juvenile court to waive its exclusive original jurisdiction and transfer a child alleged to have engaged in truancy to certain other courts that the child is 12 years of age or older. The bill specifies the period that a dispositional order regarding conduct indicating a need for supervision involving truancy is effective and limits the maximum period for such an order. A county, justice, or municipal court exercising jurisdiction over a juvenile alleged to have engaged in truancy is included among the entities to whom the Department of Public Safety is authorized to disseminate information contained in the juvenile justice information system.

Senate Bill 1489 amends the Code of Criminal Procedure to require a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed the offense of failure to attend school 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. The bill authorizes such a court to waive or reduce a fee or court cost imposed during such proceedings if the court finds that payment of the fee or court cost would cause financial hardship. A court is required to expunge an individual's conviction of failure to attend school and records relating to a conviction 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. The bill prohibits a municipality, justice court, county court, or county court at law that does not employ a juvenile case manager from collecting a juvenile case manager fee from a defendant convicted of a fine-only misdemeanor offense in the respective court.

Senate Bill 1489 amends the Education Code to add to the conditions that constitute the offense of failure to attend school that the individual committing the offense be 12 years of age or older and younger than 18 years of age. The bill requires a school district to adopt truancy prevention measures, requires each referral or complaint alleging a failure to attend school to be accompanied by a statement from the student's school certifying that the school applied the required truancy prevention measures to the student and that such measures failed to meaningfully address the student's school attendance, and requires each such referral to specify whether the student is eligible for or receives special education services.

**Senate Bill 1617**

**Effective:** 9-1-11

**Senate Author:** Harris

**House Sponsor:** Aliseda

Senate Bill 1617 amends the Family Code to authorize the criminal prosecution of a child for a criminal homicide offense or an intoxication manslaughter offense if the offense arises out of a criminal transaction for which the juvenile court retained jurisdiction over other offenses relating to the criminal transaction and one or more of the elements of the offense had not occurred on or before the date the juvenile court retained jurisdiction.

**Senate Bill 1886**

**Effective:** 5-28-11

**Senate Author:** Deuell

**House Sponsor:** Phillips

Senate Bill 1886 amends the Human Resources Code to specify that the Fannin County Juvenile Board is governed by general provisions relating to the creation of a juvenile board and to make conforming changes.

## Juvenile Justice

**The summaries for the following bills are in the listed chapters:**

House Bill 2132 - Courts

Senate Bill 315 - Criminal Justice

Senate Bill 501 - Human Services

Senate Bill 578 - Criminal Justice

# Labor and Employment

This chapter covers legislation on workforce issues, including wages, unemployment benefits, workers' compensation, and the functions and duties of the Texas Workforce Commission. Legislation on job creation is in the **Economic Development** chapter, and legislation on public employees is in the **Public Officials and Employees** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

**Senate Bill 264**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Guillen

Senate Bill 264 amends the Government Code to require a local workforce development board to provide information regarding quality child-care indicators for each licensed or registered child-care provider in the area. The bill requires a local workforce development board to determine the manner in which it will provide such information and to implement the bill's requirements not later than January 1, 2012.

**Senate Bill 304**  
**Effective:** 6-17-11

**Senate Author:** Nichols  
**House Sponsor:** Creighton

Senate Bill 304 amends the Health and Safety Code to authorize a public hospital or hospital district to establish procedures consistent with those used by the Health and Human Services Commission under the Temporary Assistance for Needy Families program for administering an employment services program and requiring an applicant or resident eligible for indigent health care assistance to register for work with the Texas Workforce Commission. The bill requires that each person with a pending application and all eligible residents be notified of the requirements of the employment services program before it is established.

**Senate Bill 563**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Torres

Senate Bill 563 amends the Labor Code to require the Texas Workforce Commission (TWC) to establish a pilot program from available funds to improve the efficiency and quality of TWC operations while reducing costs and to adopt a structured approach for identifying the wasteful use of state resources and improving TWC processes. The bill establishes requirements relating to the implementation of the pilot program, requires the TWC to report on the program's effectiveness to specified public officials and entities not later than August 1, 2012, and authorizes a state agency other than the TWC to implement the pilot program. Provisions relating to the pilot program expire September 1, 2013.

Senate Bill 563 requires the TWC to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of job matching services information maintained in the TWC's records, provides for the confidentiality of such information, and makes it a Class A misdemeanor to solicit, disclose, receive, or use, or to authorize, permit, participate in, or acquiesce in another person's use of, job matching services information that reveals certain identifying information or potentially identifying information.

## Unemployment Benefits

**House Bill 14**  
**Effective:** 9-1-11

**House Author:** Murphy et al.  
**Senate Sponsor:** Eltife

Current law disqualifies an individual for unemployment compensation benefits for a benefit period for which the individual receives certain specified forms of income. House Bill 14 amends the Labor Code to authorize the Texas Workforce Commission to adopt rules as necessary to administer that law and to add severance pay to the forms of income that disqualify an individual for benefits.

**House Bill 2579**  
**Effective:** 9-1-11

**House Author:** Davis, John et al.  
**Senate Sponsor:** Deuell

House Bill 2579 amends the Labor Code to require the Texas Workforce Commission to relieve an employer that reasonably relies on a previous determination described by the bill that service performed by an individual is not employment under the Texas Unemployment Compensation Act of penalties and sanctions that result from a subsequent determination that the service in question is employment. The bill establishes the period that an employer may rely on a previous employment determination if the service in question is substantially unchanged since the determination was made.

**House Bill 2831**  
**Effective:** 5-28-11

**House Author:** Darby  
**Senate Sponsor:** Eltife et al.

House Bill 2831 amends the Labor Code to authorize the Texas Workforce Commission by rule to adjust the extended benefit eligibility period as necessary to maximize the receipt of any fully funded federal extended unemployment benefits, if full federal funding for those benefits is available.

**Senate Bill 439**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Sheets

Senate Bill 439 amends the Labor Code to prohibit unemployment compensation benefits from being charged to an employer if an employee's last separation from employment was caused by the employer's reinstatement of a qualified uniformed service member with reemployment rights and employment benefits in accordance with the federal Uniformed Services Employment and Reemployment Rights Act of 1994.

**Senate Bill 458**  
**Effective:** 9-1-11

**Senate Author:** Seliger  
**House Sponsor:** Woolley

Senate Bill 458 amends the Labor Code to specify that the terms "last work" and "person for whom the claimant last worked," when used in connection with an initial claim for unemployment compensation benefits, refer to the last person for whom the claimant actually worked, if the claimant worked for that person for at least 30 hours during a week, or to the employer, as defined by the unemployment law of Texas or any other state, for whom the claimant last worked.

**Senate Bill 638**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Murphy

Current law authorizes the Texas Workforce Commission to compute a surplus credit for an experience-rated employer if the amount in the Texas unemployment compensation fund is at a certain level. Senate Bill 638 amends the Labor Code to set out the circumstances under which



the acquisition of an experience-related employer entitles the successor employing unit to a surplus credit attributable to, but not applied or received by, the predecessor employing unit.

## Workers' Compensation

**House Bill 528**  
**Effective:** 6-17-11

**House Author:** Solomons  
**Senate Sponsor:** Van de Putte

Certified workers' compensation networks allow an insurance carrier to direct an enrolled injured employee to seek workers' compensation health care benefits, except for pharmaceutical benefits, within the network of providers. House Bill 528 amends the Labor Code to establish provisions relating to the provision of pharmaceutical services through informal and voluntary networks. The bill authorizes the reimbursement of prescription medication or services in accordance with fee guidelines adopted by the commissioner of workers' compensation or at a contract rate and prohibits prescription medication or services from being delivered through a workers' compensation health care network under the Workers' Compensation Health Care Network Act or by directly contracting with a health care provider or by contracting through a health benefits pool.

A carrier may pay a health care provider fees for pharmaceutical services that are inconsistent with the fee guidelines adopted by the commissioner only if the carrier has a contract with the health care provider that includes a specific fee schedule. A carrier may use an informal or voluntary network to obtain a contractual agreement for pharmaceutical services that provides for fees different from those authorized under commissioner guidelines. If a carrier chooses to use an informal or voluntary network to obtain such a contractual fee agreement, there must be a contractual agreement between the carrier and the network authorizing the network to contract with health care providers for pharmaceutical services on the carrier's behalf and a contractual agreement between the network and the health care provider that includes a specific fee schedule and that complies with certain notice requirements. The bill imposes reporting requirements on informal and voluntary networks and establishes an administrative violation for carriers and networks that violate its provisions.

**House Bill 625**  
**Effective:** 9-1-11

**House Author:** Solomons  
**Senate Sponsor:** Carona

House Bill 625 amends the Labor Code to require a staff leasing services company license holder that elects to provide workers' compensation insurance for assigned employees to provide to a client company, on the written request of that company, a list of claims associated with the client company made against the license holder's workers' compensation policy and payments made and reserves established on each claim.

**House Bill 1774**  
**Effective:** 9-1-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Huffman

House Bill 1774 amends the Labor Code to continue the office of injured employee counsel to September 1, 2017, to incorporate certain across-the-board sunset provisions relating to negotiated rulemaking, alternative dispute resolution, and complaints, and to change the deadline for the office's legislative report to January 1 of each odd-numbered year. The office is authorized to seek and accept grant funding to enable it to perform its duties. The bill entitles the office, when it is assisting an injured employee, to the same access to information related to the employee's injury and workers' compensation claim as the employee or any other party to the claim and requires the division of workers' compensation of the Texas Department of

## Labor and Employment

Insurance to provide, on the office's request, the identity, claim number, and contact information of claimants receiving assistance from the office.

**House Bill 2089**  
**Effective:** 9-1-11

**House Author:** Smithee  
**Senate Sponsor:** Fraser

House Bill 2089 amends the Labor Code to require the commissioner of workers' compensation to establish, by rule, a procedure by which an insurance carrier may recoup an overpayment of income benefits from future income benefit payments that are not reimbursable and by which an insurance carrier is required to pay an underpayment of income benefits. The bill requires the procedure for recouping overpayments to take into consideration the cause of the overpayment and to minimize the financial hardship to the injured employee.

**House Bill 2605**  
**Effective:** 9-1-11

**House Author:** Taylor, Larry  
**Senate Sponsor:** Huffman

House Bill 2605 amends the Insurance Code to continue the division of workers' compensation of the Texas Department of Insurance until September 1, 2017. In addition to enacting standard across-the-board sunset provisions and revising provisions relating to appeals of medical necessity disputes, the bill restructures appeals of independent review organization determinations to include a contested case hearing before the division and authorizes judicial review of a final decision of the division.

The bill amends the Labor Code to revise administrative procedures relating to the complaint process, the designated doctor selection process, and the appeals process. The bill gives the division the authority to conduct all contested case hearings for medical necessity disputes, removes the State Office of Administrative Hearings' jurisdiction over such hearings, and provides for the appeal of a final decision by the division directly to district court. The bill transfers the division's authority to conduct medical fee contested case hearings to the State Office of Administrative Hearings.

The bill sets out requirements and procedures relating to the medical quality review process, the establishment of a quality assurance panel within the medical quality review panel, inspections of persons regulated by the division, and the division's investigation unit. The bill authorizes the commissioner to issue emergency cease and desist orders and makes an order of the commissioner subject to judicial review under the substantial evidence rule. The bill updates enforcement provisions related to the Texas Workers' Compensation Act and requires all administrative penalties collected by the division to be deposited into the general revenue fund instead of the operating account of the Texas Department of Insurance.

The bill entitles a party to a medical dispute involving an employee of a political subdivision to a contested case hearing on and judicial review of an independent review organization's determination. A political subdivision, the division, and an insurance carrier are required to accelerate and give priority to an injured first responder's claim for medical benefits.

**Senate Bill 800**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Elkins

Under current law, the commissioner of workers' compensation is authorized to designate and contract with a data collection agent to collect certain data required under the Texas Workers' Compensation Act. Senate Bill 800 amends the Labor Code to authorize such an agent to collect from a reporting insurance carrier, other than a governmental entity, any fees necessary to recover the costs of collecting data from that carrier and to require the carrier to pay the fee to the agent. The bill also requires an organization to demonstrate at least five years of experience in relevant areas to qualify as an agent.

**Senate Bill 809**  
**Effective:** 9-1-11

**Senate Author:** Seliger  
**House Sponsor:** Giddings

Senate Bill 809 amends the Labor Code to require an aggrieved party seeking judicial review of a final decision regarding a workers' compensation case involving a medical fee dispute or another medical dispute to file suit not later than the 45th day after the date on which the State Office of Administrative Hearings or the division of workers' compensation of the Texas Department of Insurance, as applicable, mailed the decision to the party.

Senate Bill 809 amends the Insurance Code to specify that an issue regarding whether an employer or an employer's insurance carrier, as applicable, properly provided an employee certain workers' compensation health care network information may be resolved using the process for adjudicating disputes under the Texas Workers' Compensation Act.

**Senate Bill 1714**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Previous law made common law defenses under the Texas Workers' Compensation Act apply to an action against an employer who does not have workers' compensation insurance coverage. Senate Bill 1714 amends the Labor Code to make the defenses apply to an action against an employer by or on behalf of an employee who is not covered by workers' compensation insurance. The bill also makes a cause of action by an employee who elects to retain the right of action to recover damages subject to all defenses available under Texas common and statutory law unless the employee has waived workers' compensation insurance coverage in connection with an agreement with an employer. The bill specifies the circumstances under which provisions relating to common law defenses and employee election are inapplicable to a cause of action by an employee.

**The summaries for the following bills are in the listed chapters:**

- House Bill 554 - Emergency Response
- House Bill 1178 - Military Forces and Veterans
- House Bill 2463 - Open Government and Privacy
- Senate Bill 321 - Law Enforcement



## Law Enforcement

This chapter covers legislation relating to the qualifications, training, and duties of peace officers; rights of retired peace officers; law enforcement agencies; concealed handguns and firearms possession; and the duties and functions of the Texas Department of Public Safety. Legislation relating to peace officer compensation, benefits, and employment issues is in the **Public Officials and Employees** chapter, and legislation relating to peace officer retirement systems is in the **Public Retirement Systems** chapter. Legislation on crime victims and criminal offenses, penalties, and procedures is in the **Criminal Justice** chapter, and legislation on juvenile offenders and proceedings is in the **Juvenile Justice** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### **House Bill 78**

**Effective:** 6-17-11

**House Author:** Flynn

**Senate Sponsor:** Williams

House Bill 78 amends the Education Code, the Government Code, and the Parks and Wildlife Code to authorize the Texas Forest Service, the Department of Public Safety, the adjutant general's department, and the Parks and Wildlife Department to use appropriated funds to purchase food and beverages for training functions required of peace officers of the respective entity and of the state military police.

### **House Bill 242**

**Effective:** Vetoed

**House Author:** Craddick et al.

**Senate Sponsor:** Hegar

House Bill 242 amends the Government Code to authorize the Public Safety Commission to call special rangers and special Texas Rangers into service for certain specified duties. The bill also authorizes a person who served as a reserve law enforcement officer not less than a total of 15 years with a state or local law enforcement agency to at any time apply for a license to carry a concealed handgun, sets out terms for the application, issuance, renewal, and expiration of such a license, and sets out provisions relating to weapons proficiency for such an officer. The bill amends the Occupations Code to provide, among other things, for the issuance of identification for a former law enforcement officer that indicates the person's status. The bill also amends the Penal Code to include a qualified retired law enforcement officer and a former reserve law enforcement officer among the officers who are exempt from certain weapon carry laws under certain conditions.

House Bill 242 amends the Transportation Code to make an offense of reckless driving a Class B misdemeanor if the offense results in the serious bodily injury or death of an operator or passenger of another motor vehicle and sets out terms for the prosecution of such an offense. The bill also prohibits an operator of a motor vehicle from using a handheld wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped and establishes conditions under which an operator is not subject to prosecution under that prohibition.

Reason Given for Veto: "Texting while driving is reckless and irresponsible. I support measures that make our roads safer for everyone, but House Bill 242 is a government effort to micromanage the behavior of adults. Current law already prohibits drivers under the age of 18 from texting or using a cell phone while driving. I believe there is a distinction between the overreach of House Bill 242 and the government's legitimate role in establishing laws for teenage drivers who are more easily distracted and laws providing further protection to children in school zones.

"The keys to dissuading drivers of all ages from texting while driving are information and education. I recommend additional education on this issue in driving safety and driver's education courses, public service ads, and announcements, and I encourage individuals and organizations that testified in favor of



## Law Enforcement

the anti-texting language included in this bill to work with state and local leaders to educate the public of these dangers.”

**House Bill 530**  
**Effective:** 6-17-11

**House Author:** Shelton  
**Senate Sponsor:** Davis

House Bill 530 amends the Code of Criminal Procedure to clarify that a local law enforcement authority, for purposes of the sex offender registration program, means the office of the chief of police of a municipality or the office of the sheriff of a Texas county, rather than only that chief of police or sheriff, respectively.

**House Bill 1010**  
**Effective:** 9-1-11

**House Author:** Bonnen  
**Senate Sponsor:** Jackson

House Bill 1010 amends the Transportation Code to add to the list of municipalities whose police officers can apply for certification to enforce commercial motor vehicle safety standards.

**House Bill 1083**  
**Effective:** 6-17-11

**House Author:** Elkins et al.  
**Senate Sponsor:** Hegar

House Bill 1083 amends the Government Code to require, rather than authorize, the law enforcement agency or governmental entity that was the last entity to appoint or employ an honorably retired peace officer as a peace officer to issue an identification card to the retired officer. The bill makes that requirement contingent on the officer’s request and applicable to an officer who holds a weapons proficiency certificate issued by a state or local law enforcement agency.

**House Bill 1241**  
**Effective:** 6-17-11

**House Author:** Zedler  
**Senate Sponsor:** Harris

Under previous law, a reserve deputy constable who is appointed by a county constable was required to execute a \$2,000 bond payable to the constable. House Bill 1241 amends the Local Government Code to create an exception to that requirement by authorizing a constable who appoints more than one reserve deputy constable to execute a blanket surety bond to cover the reserve deputy constables. As an alternative to the execution of the individual or blanket surety bond, the bill authorizes a county to self-insure against losses that would have been covered by the bond.

**House Bill 1379**  
**Effective:** 9-1-11

**House Author:** Anchia  
**Senate Sponsor:** West

House Bill 1379 amends the Local Government Code to authorize an individual who was a peace officer commissioned by a county who is honorably retired to purchase a firearm from the county if the firearm had been previously issued to the individual by the county and the firearm is not a prohibited weapon. An individual may purchase only one firearm from a county, and the commissioners court is required to establish the amount, not to exceed fair market value, for which the firearm may be purchased.

**House Bill 1402**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

Current law exempts a peace officer or an applicant for a license as a peace officer from certain provisions relating to the consequences of a criminal conviction on a person’s eligibility for certain occupational licenses. House Bill 1402 amends the Occupations Code to extend that

exemption to a person licensed or an applicant for a license as a reserve law enforcement officer, county jailer, or public security officer.

**House Bill 2006**  
**Effective:** 9-1-11

**House Author:** Bonnen  
**Senate Sponsor:** Huffman

House Bill 2006 amends the Local Government Code to list the circumstances under which a municipality with a population of 1.5 million or more, the fire or police department of such a municipality, and the Fire Fighters' and Police Officers' Civil Service Commission are authorized to release a photograph that depicts a police officer.

**House Bill 3099**  
**Effective:** 9-1-11

**House Author:** Kolkhorst  
**Senate Sponsor:** Hegar

Previous law required the office of inspector general established by the Public Safety Commission to delegate certain criminal allegations to the Texas Ranger division or the criminal investigations division of the Department of Public Safety for investigation or referral back to the inspector general for further action and provided that an investigation could be initiated only by the public safety director or the commission. House Bill 3099 amends the Government Code to require the inspector general to instead delegate for such investigation or referral any investigation considered potentially appropriate for criminal prosecution and to authorize the office of the inspector general to only initiate such an investigation based on authorization from the commission, approval of specified individuals, or commission rules or approved commission policies. The bill requires the commission to appoint the inspector general, authorizes the commission to appoint a deputy inspector general, and sets out provisions relating to the duties of the inspector general.

**House Bill 3324**  
**Effective:** 6-17-11

**House Author:** McClendon et al.  
**Senate Sponsor:** Watson

House Bill 3324 amends the Government Code to require the Department of Public Safety (DPS) to create the Texas Fusion Center Policy Council and the bylaws for the council to assist DPS in monitoring fusion center activities in Texas. The bill establishes the composition and duties of the council, prohibits a council member from receiving compensation, and entitles a member to certain reimbursement for travel expenses. The bill requires DPS to adopt rules to govern the operations of fusion centers in Texas, establishes guidelines that the rules must include, and prohibits a fusion center from receiving state grant money for failing or refusing to comply with the rules in a certain manner. The bill requires each fusion center operating in Texas to adopt a privacy policy that meets certain requirements and requires the policy council to annually submit to the governor and to each house of the legislature a report that contains certain information regarding the progress made by the council and by fusion centers and a summary of fusion center audits or reviews.

**House Bill 3422**  
**Effective:** 6-17-11

**House Author:** Lozano  
**Senate Sponsor:** Hinojosa

Under previous law, a county law enforcement agency was authorized to use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the agency and transferred to the county's general revenue account to compensate property owners whose property was damaged as a result of the pursuit. House Bill 3422 amends the Transportation Code to extend that authorization to any law enforcement agency, to make the authorization apply with respect to excess funds from the sale of an abandoned motor vehicle, watercraft, or

outboard motor transferred to a municipality's or county's general revenue fund, and to remove the limitations on the amount of the compensation payment.

**House Bill 3823**

**Effective:** 9-1-11

**House Author:** Thompson

**Senate Sponsor:** Ellis

House Bill 3823 amends the Occupations Code to include telecommunicators employed by or serving certain law enforcement agencies among the law enforcement personnel regulated by provisions relating to certain duties of the Commission on Law Enforcement Officer Standards and Education, the disqualification of law enforcement personnel for certain convictions, and the commission's issuance of proficiency certificates to law enforcement personnel. The bill establishes that an employing agency is not prevented from establishing qualifications and standards for hiring or training telecommunicators that exceed the commission's minimum standards and also requires that a telecommunicator be at least 18 years old and hold a high school diploma or high school equivalency certificate. A state, county, special district, or municipal agency that employs telecommunicators is required to provide each telecommunicator with 24 hours of crisis communications instruction approved by the commission on or before the first anniversary of the telecommunicator's first day of employment. The bill makes it a state jail felony offense for a person to appoint, employ, or retain an individual as a telecommunicator if the individual has a felony or barratry conviction.

**Senate Bill 150**

**Effective:** 6-17-11

**Senate Author:** West

**House Sponsor:** Miller, Sid

Senate Bill 150 amends the Code of Criminal Procedure to revise the list of named criminal investigators of the United States who are not deemed peace officers but who have the powers of arrest, search, and seizure under state law as to felony offenses only.

**Senate Bill 244**

**Effective:** 9-1-11

**Senate Author:** Patrick

**House Sponsor:** Fletcher

Senate Bill 244 amends the Education Code to authorize the Bill Blackwood Law Enforcement Management Institute of Texas to establish and offer a continuing education program for command staff for individuals who are second in command to police chiefs. The bill requires the program to satisfy the requirements established under provisions relating to the institute for the police chief continuing education program.

Senate Bill 244 amends the Occupations Code to exempt a peace officer who is second in command to a police chief of a law enforcement agency and who attends a continuing education program for command staff provided by the institute from the peace officer continuing education requirements imposed by the Commission on Law Enforcement Officer Standards and Education under provisions relating to continuing education and yearly weapons proficiency.

**Senate Bill 321**

**Effective:** 9-1-11

**Senate Author:** Hegar et al.

**House Sponsor:** Kleinschmidt

Senate Bill 321 amends the Labor Code to prohibit a public or private employer from prohibiting an employee who holds a concealed handgun license issued by the Department of Public Safety and who otherwise lawfully possesses a firearm or ammunition from transporting or storing a firearm or ammunition the employee is lawfully authorized to possess in a locked, privately owned motor vehicle in a parking area the employer provides for employees, with certain exceptions. The bill specifies that the prohibition does not prohibit an employer from prohibiting an employee who holds a concealed handgun license, 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. The bill provides immunity from civil liability for a public or private employer or the employer's principal, officer, director, employee, or agent for any damages resulting from or arising out of an occurrence involving a firearm or ammunition transported or stored in accordance with the bill's provisions, except in cases of gross negligence, and establishes that such immunity does not limit or alter the personal liability of an individual or employee who engages in certain actions involving a firearm or ammunition.

Senate Bill 321 amends the Government Code to provide for the definition of "premises" for purposes of provisions regarding the rights of employers to prohibit a concealed handgun license holder from carrying a concealed handgun on the premises of a business.

**Senate Bill 364**  
**Effective:** 9-1-11

**Senate Author:** Ogden et al.  
**House Sponsor:** Brown

Senate Bill 364 amends the Government Code to require the Department of Public Safety (DPS) to compile and maintain specified statistical information on the prosecution of offenses relating to the operating of a motor vehicle while intoxicated. The bill requires each law enforcement agency that enforces Penal Code provisions relating to intoxication and alcoholic beverage offenses and each appropriate prosecuting attorney's office and court in Texas to report the information necessary for DPS to compile the required statistical information. DPS is required to identify the law enforcement agencies, prosecuting attorney's offices, and courts that fail to timely report or that report incomplete information to DPS and to submit a report to the legislature containing that information and the required statistical information compiled for the preceding calendar year.

**Senate Bill 530**  
**Effective:** 6-17-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Miller, Sid

Senate Bill 530 amends the Code of Criminal Procedure to revise the list of named criminal investigators of the United States who are not deemed peace officers but who have the powers of arrest, search, and seizure under state law as to felony offenses only.

**Senate Bill 542**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Fletcher

Senate Bill 542 amends the Occupations Code to clarify the applicability of provisions relating to medical test requirements for licensure by the Commission on Law Enforcement Officer Standards and Education and provisions relating to continuing education procedures adopted by the commission for license holders. The bill removes a physical examination as an option for testing for drug dependency or illegal drug use for licensure purposes and requires a police chief to complete the initial training and continuing education program for police chiefs provided by the Bill Blackwood Law Enforcement Management Institute of Texas at Sam Houston State University. The bill repeals a provision prohibiting an ex officio member of the commission from voting at a commission meeting.

**Senate Bill 1378**  
**Effective:** 9-1-11

**Senate Author:** Nichols  
**House Sponsor:** Otto et al.

Senate Bill 1378 amends the Code of Criminal Procedure to authorize 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. The bill establishes that, within the boundaries of the tribe's reservation, such a peace officer is vested with all the powers, privileges, and immunities of peace officers and authorizes such a peace officer to arrest without a warrant any person who violates state law and enforce all traffic laws on streets and highways.

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The bill establishes that, outside the boundaries of the tribe's reservation, such a peace officer is vested with all the powers, privileges, and immunities of peace officers and authorizes such a peace officer to arrest any person who violates state law if the officer is summoned by another law enforcement agency to provide assistance or is assisting another law enforcement agency. A peace officer commissioned under the bill's provisions is not entitled to state benefits normally provided by the state to a peace officer.

**Senate Bill 1600**

**Effective:** 6-17-11

**Senate Author:** Whitmire

**House Sponsor:** King, Phil et al.

Senate Bill 1600 amends the Occupations Code to make the Private Security Act inapplicable to 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 act; is not in the employ of another peace officer; is not a reserve peace officer; and works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or a political subdivision.

**Senate Bill 1787**

**Effective:** 9-1-11

**Senate Author:** Patrick

**House Sponsor:** Martinez Fischer

Senate Bill 1787 amends the Transportation Code to require an officer, before requesting a person arrested for an offense involving the operation of a motor vehicle or watercraft to submit to the taking of a specimen, to inform the person orally and in writing that the officer may apply for a warrant authorizing a specimen to be taken from the person if the person refuses to submit to the taking of a specimen.

**The summaries for the following bills are in the listed chapters:**

House Bill 1503 - Elections

House Bill 2560 - Family Law

Senate Bill 601 - Special Districts

Senate Bill 1636 - Criminal Justice



## Local Government

This chapter covers legislation on the governments of municipalities, counties, and other local political subdivisions, as well as on international border issues. Legislation relating to the duties of local government personnel, other than peace officers, is in this chapter, while legislation on local government personnel benefits, compensation, and employment issues is in the **Public Officials and Employees** chapter. Legislation relating to local government purchasing is in the **Government Purchasing** chapter, legislation relating to open government is in the **Open Government and Privacy** chapter, and legislation on the duties of peace officers is in the **Law Enforcement** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 564**

**Effective:** 5-27-11

**House Author:** Craddick

**Senate Sponsor:** Seliger

House Bill 564 amends the Local Government Code to enact the Ariel Corley Memorial Act requiring a local government that adopts an ordinance, order, or policy that requires motor vehicles owned by the local government to be equipped with portable fire extinguishers to require maintenance to be performed annually on the extinguishers in accordance with standards that are at least as stringent as the National Fire Protection Association Standard Number 10, Portable Fire Extinguishers.

#### **House Bill 1263**

**Effective:** 6-17-11

**House Author:** Lucio III et al.

**Senate Sponsor:** Shapiro

House Bill 1263 amends the Cultural Education Facilities Finance Corporation Act to add a legislative finding regarding the substantial investment made by qualified nonprofit corporations in useful and beneficial cultural facilities and the effect that inadequate levels of funding and other financial limitations have had on such corporations' ability to undertake additional projects. The bill redefines "cultural facility," for purposes of the act, and requires a cultural education facilities finance corporation to be created and organized in the same manner as a health facilities development corporation under the Health Facilities Development Act. The bill also requires any bonds, notes, or other obligations authorized under the powers granted to such a corporation to be issued in accordance with the Public Security Procedures Act and authorizes a corporation, regardless of any other provision in the Health Facilities Development Act and the Higher Education Authority for Public Schools Act, to exercise its powers on behalf of a user outside of Texas if the user also conducts lawful activities in Texas.

#### **House Bill 1400**

**Effective:** 9-1-11

**House Author:** Elkins

**Senate Sponsor:** West

House Bill 1400 amends the Local Government Code to include expenses related to the operation and maintenance of mass transportation facilities as authorized expenses incurred in the establishment, administration, and operation of a public improvement district.

The bill authorizes a municipality that has 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 to undertake a public improvement project that confers a special benefit on areas, which may be noncontiguous, that share a common characteristic or use. These provisions apply only to certain public improvement districts.

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The bill requires the governing body of the municipality or county, before holding a public hearing on the advisability of a proposed improvement that includes a deferred assessment, to estimate the appraised value of taxable real property liable for assessment in the district and the cost of the improvement. The bill authorizes the governing body of a municipality or county to defer an assessment until a date the governing body specifies in the ordinance or order levying the assessment as a special assessment on the property. The bill expands the purposes for which a home-rule municipality is authorized to create an improvement district to include financing an authorized improvement.

**House Bill 1665**  
**Effective:** 6-17-11

**House Author:** King, Susan  
**Senate Sponsor:** Fraser

House Bill 1665 amends Local Government Code provisions that are applicable to a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under the Airport Zoning Act. The bill requires such a community that proposes to approve a proposed structure or adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a defense base to notify, rather than seek comments and analysis from, the defense base authorities concerning the compatibility of the proposal with base operations. The bill removes language that included an area located within eight miles of the military exercise or training activities connected to the base in the requirement.

**House Bill 2160**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** West

House Bill 2160 amends the Local Government Code to require the governing body of a regional planning commission, council of governments, or similar regional planning agency 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, council, or agency.

**House Bill 2690**  
**Effective:** 6-17-11

**House Author:** Deshotel  
**Senate Sponsor:** Williams

House Bill 2690 amends the Local Government Code to authorize a political subdivision of the state to donate or sell for less than fair market value a designated parcel of land or an interest in real property to another political subdivision if the land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling political subdivision, the donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made, and the title and right to possession of the land or interest revert 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. The bill makes notice and bidding requirements relating to the sale or exchange of land owned by a political subdivision inapplicable to such a donation or sale.

**House Bill 2717**  
**Effective:** 6-17-11

**House Author:** Darby  
**Senate Sponsor:** Carona

Under previous law, a county clerk, district clerk, or county and district clerk was required each year to complete 20 hours of continuing education courses, including at least one hour of courses regarding court registry funds and at least one hour of courses regarding fraudulent court documents and fraudulent document filings. House Bill 2717 amends the Government Code to specify that the required courses regarding registry funds and regarding fraudulent court

documents and fraudulent document filings must be completed during the first year of each term of office. Previous law allowed a person to be exempt from petit jury service if the person has custody of a child younger than 15 years of age and such service would leave the child without adequate supervision. The bill decreases to 12 the maximum age of the child on which that exemption is based.

House Bill 2717 amends the Health and Safety Code to authorize a local registrar or county clerk to collect a fee not to exceed \$1 for training registrar or county clerk employees regarding vital statistics records and for ensuring the safety and security of vital statistics records. The bill repeals provisions requiring a local registrar to file with the commissioners court or the county auditor a copy of each birth, death, and fetal death certificate filed with the local registrar during the preceding month.

House Bill 2717 amends the Local Government Code to authorize the commissioners court of a county to authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment of such a fee, fine, court cost, or other charge by electronic means, in addition to payment by credit card. The bill authorizes the commissioners court to authorize a county or precinct officer to collect and retain a fee for processing such a payment by electronic means.

**House Bill 2857**  
**Effective:** 1-1-12

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 2857 amends the Local Government Code to establish provisions relating to the regulation by municipal ordinance of outdoor lighting in a municipality located in a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory. The bill makes these provisions inapplicable to outdoor lighting in existence or under construction on January 1, 2012, and to the installation, maintenance, repair, or replacement of outdoor lighting owned or operated by an electric utility regulated by the Public Utility Commission of Texas. The bill authorizes an applicable municipality to sue in any court to enjoin a violation of these provisions and makes it a Class C misdemeanor for a person to violate an ordinance adopted under such provisions.

The bill requires the commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, to adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county whereas previous law authorized the commissioners court to adopt such orders on the request of the director of the McDonald Observatory. The bill requires, rather than authorizes, such a commissioners court to adopt orders establishing standards relating to certain proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting. The bill repeals the definition of “person” applicable to provisions relating to outdoor lighting near observatories and military installations.

**Senate Bill 494**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Craddick

Senate Bill 494 amends the Health and Safety Code to authorize certain local governmental entities to borrow money for purposes of a public hospital owned or operated by the entity and to establish a maximum interest rate for such a loan. The bill authorizes the entity to pledge hospital revenue or the entity’s tax revenue to secure the loan and specifies loan maturity deadlines.

## Local Government

**Senate Bill 760**  
**Effective:** See below

**Senate Author:** West  
**House Sponsor:** Turner

Senate Bill 760 amends Government Code provisions relating to a local government's authority to enter into interlocal contracts for the performance of certain governmental functions and services to authorize an interlocal contract to have a specified term of years. The bill takes effect on the date the state constitutional amendment proposed by Senate Joint Resolution 26 is approved by the voters.

**Senate Bill 1030**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Anchia

Previous law required an applicant for a license or permit to operate a sexually oriented business at a location not previously licensed or permitted to post a sign at the location that provides certain information. Senate Bill 1030 amends the Local Government Code to require that the sign be posted if the location is not currently licensed or permitted.

**Senate Bill 1692**  
**Effective:** 9-1-11

**Senate Author:** Lucio et al.  
**House Sponsor:** Alvarado

Senate Bill 1692 amends the Local Government Code to require the commissioners court of a county with a population of more than 125,000 and operating under the alternate method of budget preparation, on final approval of the budget, to take action to ensure that a copy of the budget is posted on the county's Internet website, if the county maintains a website. The bill amends the Government Code to require the comptroller to provide on the comptroller's Internet website a link to the website of each municipality and county that provides budget information for the municipality or county.

## Municipal Government

**House Bill 91**  
**Effective:** 9-1-11

**House Author:** Cook  
**Senate Sponsor:** Birdwell

House Bill 91 amends the Local Government Code to establish that the extraterritorial jurisdiction of a municipality with a population of not less than 20,000 and not more than 29,000 and that meets certain other criteria includes the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within three miles of those boundaries.

**House Bill 707**  
**Effective:** 6-17-11

**House Author:** Laubenberg  
**Senate Sponsor:** Estes

House Bill 707 validates all governmental acts and proceedings of a governing body of a municipality with a population of 500 or less according to the 2000 federal decennial census under the Public Improvement District Assessment Act taken or occurring before the bill's effective date to establish a public improvement district, designate improvements, levy assessments, or finance costs of improvements. The bill excepts from its provisions an act or proceeding the validity of which is the subject of litigation that is pending on the bill's effective date or a governmental act or proceeding that, under state law at the time the act or proceeding occurred, was a misdemeanor or a felony.

**House Bill 782**  
**Effective:** 9-1-11

**House Author:** Davis, Yvonne  
**Senate Sponsor:** Wentworth

House Bill 782 amends the Local Government Code to prohibit a municipality or Type B corporation from purchasing property or property for a project, as applicable, wholly or partly with bond proceeds until the applicable entity obtains an independent appraisal of the property's market value.

**House Bill 844**  
**Effective:** 6-17-11

**House Author:** Geren  
**Senate Sponsor:** Nelson

House Bill 844 amends the Local Government Code to increase from 575,000 to 825,000 the maximum population of a municipality that is authorized to sell, without notice or the solicitation of bids, land within a certain distance of a lake to a person leasing the land.

**House Bill 1643**  
**Effective:** 6-17-11

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

Previous law placed a 15-year limit on the period for which a contract, or an extension or renewal of that contract, between the governing body of a municipality with a population of less than 1.9 million and an owner of land that is located in the extraterritorial jurisdiction of such a municipality may guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality. House Bill 1643 amends the Local Government Code to remove both 15-year contract limitations without changing the 45-year limitation on the total duration of such a guarantee.

**House Bill 2127**  
**Effective:** 6-17-11

**House Author:** Geren  
**Senate Sponsor:** Harris

House Bill 2127 amends the Local Government Code to prohibit a municipality located in a county in which the majority of the population of two or more municipalities with a population of 300,000 or more are located from applying a regulation relating to the discharge, under certain conditions, of specified firearms and other weapons in the extraterritorial jurisdiction of the municipality, or in an area annexed by the municipality on or before September 1, 1981.

**House Bill 2584**  
**Effective:** 6-17-11

**House Author:** Anderson, Rodney  
**Senate Sponsor:** Harris

House Bill 2584 amends the Local Government Code to authorize the governing body of a municipality with certain characteristics, if it determines that certain real property owned by the municipality is surplus real property of negligible or negative value, to donate the property to a private person who owns property adjacent to that property.

**House Bill 2902**  
**Effective:** 6-17-11

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 2902 amends the Local Government Code to authorize a municipality to expand its extraterritorial jurisdiction to include an area that is located in the extraterritorial jurisdiction of another municipality under a written agreement between the two municipalities. The bill requires a municipality that meets certain criteria, including that at least two-thirds of the residents reside within a gated community, to release an area from its extraterritorial jurisdiction after receiving a petition requesting such a release signed by at least 80 percent of the owners of real property located in the area.



## Local Government

**House Bill 3352**  
**Effective:** 6-17-11

**House Author:** Smith, Wayne  
**Senate Sponsor:** Gallegos

Current law prohibits land owned, held, or claimed as a public square or park from being sold by a municipality unless the issue of the sale is submitted to the qualified voters of the municipality at an election and is approved by a majority of the votes received at the election. House Bill 3352 amends the Local Government Code to exempt from such a prohibition a conveyance of park land owned by a municipality that has certain characteristics.

**Senate Bill 173**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Dutton

Senate Bill 173 amends the Local Government Code to authorize a municipality, in an action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs, to also bring an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant. The bill expands the municipal ordinances under which a home-rule municipality is authorized to bring an action in district court against an owner of property if the owner is not in substantial compliance with the ordinance and authorizes the court to appoint as a receiver for the property an individual with a demonstrated record of rehabilitating any property on certain findings of the court.

**Senate Bill 508**  
**Effective:** 6-17-11

**Senate Author:** Lucio  
**House Sponsor:** Lozano et al.

Senate Bill 508 amends the Local Government Code to revise provisions establishing the extent of the extraterritorial jurisdiction of a municipality that is located on a barrier island in the Gulf of Mexico and meets certain other criteria to include the area contiguous to the municipality's corporate boundaries that is located within one-half mile of those boundaries off the barrier island.

**Senate Bill 509**  
**Effective:** 5-28-11

**Senate Author:** Lucio  
**House Sponsor:** Lozano

Senate Bill 509 validates, with certain exceptions, 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.

**Senate Bill 577**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Frullo

Senate Bill 577 amends the Government Code to reduce the minimum population of a home-rule municipality from 1.9 million to 200,000 for purposes of the definition of an "eligible contract" as it pertains to written evidence of agreement that is executed, authenticated, certified, or endorsed for or on behalf of such a municipality under the Uniform Facsimile Signature of Public Officials Act. The bill amends the Health and Safety Code to authorize a signature on a lien statement in connection with the assessment of expenses for sanitation improvements by a municipality to be a facsimile signature.

**Senate Bill 1789**  
**Effective:** 6-17-11

**Senate Author:** Patrick  
**House Sponsor:** Bohac

Senate Bill 1789 amends the Local Government Code to revise the applicability of a provision relating to additional requirements for certain replats affecting a subdivision golf course.

## County Government

**House Bill 1174**  
**Effective:** 6-17-11

**House Author:** Workman  
**Senate Sponsor:** Wentworth

Current law provides for the expiration of a county burn ban on determinations made by specified entities, including a commissioners court, that drought conditions and certain other circumstances no longer exist. House Bill 1174 amends the Local Government Code to add, as an alternative to a determination made by the commissioners court, a determination made by a county judge or fire marshal if designated for that purpose by the commissioners court.

**House Bill 1426**  
**Effective:** 6-17-11

**House Author:** Farias  
**Senate Sponsor:** Wentworth

House Bill 1426 amends the Code of Criminal Procedure to add the commissioners court of a county that has implemented a collection improvement program to improve the collection of court costs, fees, fines, and other money to the list of individuals and entities authorized to collect money payable under the Code of Criminal Procedure or other law.

**House Bill 1567**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** Gallegos

House Bill 1567 amends the Local Government Code to authorize 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.

**House Bill 1768**  
**Effective:** Vetoed

**House Author:** Munoz, Jr. et al.  
**Senate Sponsor:** Hinojosa

House Bill 1768 amends the Transportation Code to lower from 1.3 million to 450,000 the minimum population threshold of a county under which the county commissioners court by order may regulate roadside vendors and solicitors in the unincorporated area of the county under certain circumstances. The bill specifies that such an order adopted by the commissioners court of a county with a population of less than 3.3 million may not prohibit the sale of livestock.

Reason Given for Veto: "House Bill 1768 would encroach upon the rights of private enterprise and property owners while fundamentally altering and expanding the role of county government. House Bill 1768 would allow the commissioners court of a county with a population of 450,000 or more to regulate vendors in the right-of-way of a public road or highway, and in a parking lot.

"It would be unfortunate if, through regulation, we unintentionally prevented, for example, the owner of a peach orchard with baskets of fruit or a Girl Scout troop with cartons of cookies from reaching their consumers. As a state, we should not raise barriers of entry into the marketplace, stifle competition or hinder the entrepreneurial spirit.

"Because I appreciate the goal of House Bill 1768 to protect the health and safety of the public on our roadways, I am directing the Texas Department of Public Safety and the Texas Department of Transportation to work together with county governments to assist them in fully utilizing the existing tools at their disposal to balance public safety and free enterprise."

**House Bill 1812**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Seliger

Current law prescribes conditions for the type of newspaper required for publication of a government notice generally and different conditions applicable in certain counties. House Bill 1812 amends the Government Code to extend the application of the provisions that apply to

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certain counties to a county that does not have a newspaper published in the county that meets the conditions that are applicable generally.

**House Bill 1917**  
**Effective:** 5-21-11

**House Author:** Schwertner  
**Senate Sponsor:** Ogden

House Bill 1917 amends the Health and Safety Code to change the conditions for removal of an appointed emergency services commissioner by a commissioners court. Under previous law, the commissioners court of a county in which a general emergency services district is located, by an order adopted by a majority vote after a hearing, was authorized to remove one or more board members if the board failed, within a specified period, to give a required report regarding the district's budget, tax rate, and debt service for the preceding fiscal year. The bill instead authorizes the commissioners court, by an order adopted by a majority vote after a hearing, to remove a board member for incompetency, official misconduct, or misconduct as defined by certain Local Government Code provisions. The bill specifies that a deliberation regarding such a removal is exempted from the state open meetings requirement in the same manner as a deliberation regarding a dismissal of a member of a county advisory board. The bill requires a commissioners court seeking removal of a board member to notify the board members that it is considering that action not later than the 30th day before the date on which the hearing is held.

**House Bill 2002**  
**Effective:** 9-1-11

**House Author:** Marquez  
**Senate Sponsor:** Rodriguez

House Bill 2002 amends provisions of the Local Government Code relating to a county ethics commission in a county that has a population of 800,000 or more, is located on the international border, and before September 1, 2009, had a county ethics board appointed by the commissioners court of the county. The bill revises provisions relating to member appointments, selection of the commission chair, required training, and procedures regarding complaints and ethics code violations.

**House Bill 2266**  
**Effective:** 9-1-11

**House Author:** Smith, Wayne  
**Senate Sponsor:** Patrick

House Bill 2266 amends the Local Government Code to authorize a county to issue, for a building or complex of buildings involving phased completion or build-out in an unincorporated area of the county, a partial certificate of compliance for any portion of the building or complex an inspector determines is in substantial compliance with the fire code. The bill authorizes the county to deny a certificate of compliance or issue a conditional or partial certificate of compliance and allow the building to be occupied, rather than requiring the county to deny the certificate of compliance and prohibiting the building from being occupied, if an inspector determines after an inspection of the completed building that the building does not comply with the fire code. The bill requires a county that issues such a conditional certificate of compliance to notify the owner of the building of the violations of the fire code, authorizes a county to revoke a certificate if the owner does not remedy the violations within the time specified on the certificate, and prohibits a building from being occupied until a county issues a final, conditional, or partial certificate of compliance.

**House Bill 2716**  
**Effective:** 6-17-11

**House Author:** Darby  
**Senate Sponsor:** Carona

House Bill 2716 amends Local Government Code provisions relating to the fees charged for the management and preservation of a county clerk's records. Previous law required a records management and preservation fee set by a county clerk in a county that is adjacent to

an international boundary to be deposited in a separate records management and preservation account in the general fund of the county. House Bill 2716 applies that requirement to all counties.

The bill also establishes that any interest accrued in regard to a records archive fee adopted by a commissioners court required to be deposited in a separate records archive account in the general fund of the county remains with the account. Rather than being subject to approval in a public meeting in general, the designation of public documents that are part of an applicable records archive by a county clerk is subject to approval by the commissioners court in a public meeting during the budget process. Under previous law, a county clerk was required to prepare an annual written plan for funding the preservation and restoration of the county clerk's records archive and, after a public hearing, the plan was to be considered for approval by the commissioners court. The bill instead requires the county clerk to prepare the annual written plan before collecting a records archive fee and authorizes the public hearing on the plan to be held during the budget process. The bill authorizes the plan, after the establishment of the fee, to be approved annually during the budget process. The bill subjects the fee to approval by the commissioners court in a public meeting during the budget process, rather than during a public meeting in general.

The bill repeals a provision relating to the use and collection of a records archive fee after completion of a county records archive preservation and restoration project.

**House Bill 3003**

**Effective:** 9-1-11

**House Author:** Hughes

**Senate Sponsor:** Eltife

House Bill 3003 amends the Local Government Code to grant to all commissioners courts, rather than only to the commissioners court of a county with a population of 2.8 million or more, the authority to authorize the issuance of identification cards to certain individuals to permit entrance into certain county buildings without passing through security services and to set a reasonable fee for the card.

**House Bill 3096**

**Effective:** 6-17-11

**House Author:** Kolkhorst

**Senate Sponsor:** Carona

House Bill 3096 amends the Local Government Code, in a provision authorizing the commissioners court of a county to deny a cancellation of a subdivision located outside a municipality and the extraterritorial jurisdiction of a municipality if the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development, to provide that such denial is authorized to be made without regard to the date land is subdivided or a plat is filed for a subdivision. The bill clarifies the meaning of development for purposes of the provision.

**House Bill 3788**

**Effective:** 6-17-11

**House Author:** Marquez

**Senate Sponsor:** Davis

House Bill 3788 amends the Local Government Code to require the chairman of a county civil service commission or the chairman of a sheriff's department civil service commission in certain counties, as applicable, in a proceeding before a commission and on request of an affected employee, county attorney, or a designee of the employee or county attorney, to administer oaths and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. Among other provisions, the bill authorizes the affected employee, the county attorney, or a designee of the employee or county attorney, before the 15th day before the date a commission proceeding will be held, to request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. A person's failure to appear as required by the subpoena

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is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

**Senate Bill 373**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Darby

Senate Bill 373 amends the Code of Criminal Procedure to authorize a county treasurer to collect money payable under the code with the written approval of the clerk of the court or fee officer and to collect money payable as otherwise provided by law. The bill revises procedures relating to the requirement that an officer who collects certain obligations recovered in the name of the state deposit the money in the county treasury by a certain date.

Senate Bill 373 amends the Local Government Code to make the requirement that a person who first takes office as county treasurer successfully complete an introductory course of instruction in the performance of the duties of county treasurer within one year after the date on which the person takes office applicable only to a person elected to a full term and to require a person who first takes office as county treasurer for an unexpired term to successfully complete such a course at the earliest available date. The bill sets out provisions relating to the execution of security bonds by a county treasurer on assistant treasurers, deputies, and employees of the office and establishes provisions relating to the appointment of an assistant treasurer or treasury deputy. The bill requires the county treasurer to notify the county auditor of the receipt of certain revenue not previously included in a special budget or the annual budget for that fiscal year. The bill revises provisions relating to the reconciliation of depository accounts, to the requirement that money belonging to the county be deposited with the county treasurer, and to the disbursement of money by the county treasurer. The bill specifies that a county with a population of more than 225,000 publishing monthly financial reports that publishes its comprehensive annual financial report on its Internet website is not required to publish an annual financial exhibit.

**Senate Bill 520**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 520 amends the Local Government Code to authorize the creation of more than one county assistance district in a county and to cap the combined rate of all local sales and use taxes imposed in such a district at the maximum combined rate prescribed by Tax Code provisions relating to municipal and county sales and use taxes rather than at two percent. The bill authorizes territory of a municipality that was included in a proposed county assistance district but is excluded from the district by the municipality's governing body to subsequently be included in another district after complying with applicable statutory requirements and after an election is held regarding inclusion in a district and imposition of the district's sales and use tax.

Previous law prohibited another election on the question of creating a county assistance district from being held in a county before the first anniversary of the most recent election concerning the creation of a district if a majority of the votes received at the election were against the creation. The bill provides that in the case of such a majority the district is not created and that the failure to approve a district's creation does not affect the county's authority to call one or more elections on the question of creating one or more county assistance districts.

Senate Bill 520 authorizes a district's governing body by order to 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 and provides that no election is required if there are no registered voters in the area to be so included. The bill authorizes a county commissioners court by order to exclude an area from the district if the district has no outstanding bonds payable from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.



Senate Bill 520 requires the commissioners court of the county in which a county assistance district is created to provide by order that the commissioners court is the district's governing body or to appoint a five-member board of directors for the district whose members serve staggered two-year terms. The bill authorizes a district to enter into agreements with municipalities necessary or convenient to achieve the district's purpose.

Senate Bill 520 authorizes a county assistance district that has adopted a sales and use tax to reduce the tax rate or repeal the tax without an election unless the tax or tax rate is necessary to secure payment of outstanding district debt or contractual obligation and establishes certain conditions under which the district may increase the tax rate. The bill removes the cap of one-half of one percent from the provision authorizing the sales and use tax to be changed in one or more increments of one-eighth of one percent. The bill repeals a Local Government Code provision relating to the language of a ballot for an election to repeal the tax.

**Senate Bill 802**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Hunter

Senate Bill 802 amends the Transportation Code to authorize the Aransas County Commissioners Court to charge interest on an assessment for certain county road improvements. The bill addresses the time frame and rate of the interest.

**Senate Bill 1044**  
**Effective:** 6-17-11

**Senate Author:** Watson et al.  
**House Sponsor:** Ritter

Senate Bill 1044 amends the Natural Resources Code to authorize a county, subject to certain restrictions and exemptions, to finance the acquisition of a conservation easement in the same manner as permitted for that county under a statutory provision relating to bonds and taxes for the acquisition or improvement of land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes; or under a statutory provision relating to purposes for which certificates of obligation may be authorized for land and rights-of-way.

Senate Bill 1044 includes a county in the definition of "qualified easement holder" for purposes of the Texas Farm and Ranch Lands Conservation Program. The bill removes language requiring an application for a grant under the program to demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought.

**Senate Bill 1233**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Coleman

Senate Bill 1233 amends provisions of the Agriculture Code, Code of Criminal Procedure, Election Code, Family Code, Government Code, Health and Safety Code, Local Government Code, and Property Code relating to certain district court and county services and functions. The bill, among other provisions:

- 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 by law;
- authorizes a licensed jailer to execute lawful process under certain circumstances;
- authorizes a peace officer summoned to testify before a grand jury to testify through the use of a closed circuit video teleconferencing system;
- authorizes a person operating a video teleconferencing system to be present in a grand jury room while the grand jury is conducting proceedings;
- establishes that a court reporter or court recorder is not required to transcribe or make a separate recording of a plea taken by closed circuit video teleconferencing unless an appeal is taken in the case and a party requests a transcript;

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- authorizes any deposition or testimony of an inmate witness in certain proceedings to be conducted by a video teleconferencing system in a prescribed manner;
- authorizes a medical examiner to charge reasonable fees for services provided by the office of medical examiner under certain conditions;
- authorizes the employment of a county elections administrator to be suspended, with or without pay, as an alternative to being terminated under certain conditions;
- changes the amount of the fee a district clerk is required to collect for each page or part of a page of a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office;
- authorizes a court in certain counties to appoint a spoken language interpreter who is not a licensed court interpreter;
- adds a county commissioners court to a current open meetings law provision applicable to municipalities that authorizes, under specified circumstances, certain reports to be received and made at a meeting without prior public notice of the subject of the report;
- authorizes the commissioners courts of all counties, rather than only counties with a population of 400,000 or more, to conduct a closed meeting to deliberate certain business and financial issues;
- adds the electronic processing of checks as a payment method authorized by a commissioners court for the collection of certain fees, fines, court costs, or other charges;
- authorizes reimbursement for the provision of punitive damage coverage from a person to whom a self-insuring county or a county government liability insurance pool provides coverage;
- revises provisions relating to an exclusive county contract for the marketing of a computer software application or software system developed by or for a county and relating to the sale or licensing of such software;
- adds a determination made by a county judge or fire marshal if designated for that purpose by the commissioners court to the current law that provides for the expiration of an order prohibiting or restricting outdoor burning after certain determinations are made by specified entities;
- revises provisions relating to a county assistance district's creation and functions, governing body, agreements with municipalities, and sales and use tax;
- sets out procedures relating to foreclosure data collection by the Texas Department of Housing and Community Affairs; and
- repeals certain provisions relating to a constable's power to summon assistance from a county resident and relating to the requirement that a commissioners court maintain an indexed county finance ledger.

**Senate Bill 1243**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Coleman

Under current law, certain county officers, district attorneys, and criminal district attorneys are required to execute a surety bond. Senate Bill 1243 amends the Local Government Code and the Government Code to authorize the use of a county government risk management pool as an alternative to the execution of a bond by the officer or attorney. The bill also authorizes a self-insuring county or the pool to require reimbursement for the provision of punitive damage coverage from a person to whom the county or pool provides coverage.

**Senate Bill 1760**

**Effective:** 9-1-11

**Senate Author:** Lucio

**House Sponsor:** Oliveira

Senate Bill 1760 amends the Local Government Code to require certain counties, when selling certain real property presumed to be for residential use, to include in the public notice of sale of the property and the deed conveying the property a statement disclaiming warranties and informing the buyer that any lack of water or wastewater service may disqualify the property from residential use. The bill requires the statement to be read aloud at the sale and makes a sale conducted in violation of the bill's provisions void.

**The summaries for the following bills are in the listed chapters:**

House Bill 232 - Property Interests and Housing  
House Bill 345 - Civil Remedies and Procedures  
House Bill 364 - Property Interests and Housing  
House Bill 590 - Taxes and Tax Administration  
House Bill 984 - Courts  
House Bill 990 - Economic Development  
House Bill 1147 - State Government  
House Bill 1241 - Law Enforcement  
House Bill 1500 - Open Government and Privacy  
House Bill 1568 - Special Districts  
House Bill 2207 - Utilities  
House Bill 2226 - State Government  
House Bill 2313 - Open Government and Privacy  
House Bill 2729 - Government Purchasing  
House Bill 2978 - Open Government and Privacy  
House Bill 3111 - Special Districts  
Senate Bill 86 - Transportation  
Senate Bill 525 - Environment  
Senate Bill 609 - Water  
Senate Bill 766 - Civil Remedies and Procedures  
Senate Bill 1230 - Utilities  
Senate Bill 1258 - Environment  
Senate Bill 1698 - Corrections  
Senate Bill 1907 - Open Government and Privacy



## Military Forces and Veterans

This chapter covers legislation on issues relating to current and former military personnel, including tax benefits, employment services, and special recognitions, as well as legislation relating to the Texas Veterans Commission. Legislation on economic development in military base communities is in the **Special Districts** chapter, and legislation on education benefits is in the **Higher Education** chapter and the **Public Education** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 74**

**Effective:** 5-20-11

**House Author:** Flynn et al.

**Senate Sponsor:** Van de Putte

House Bill 74 amends the Health and Safety Code to establish that a United States Department of Defense Record of Emergency Data, DD Form 93, or a successor form, that was in effect at the time of death for a decedent who was a member of the United States armed forces and who died in a manner specified by federal law controls over any other written instrument with respect to designating a person to control the disposition and interment of the decedent's remains.

#### **House Bill 282**

**Effective:** 9-1-11

**House Author:** Flynn et al.

**Senate Sponsor:** Van de Putte

House Bill 282 amends the Government Code to require the adjutant general, before granting or conveying an interest in real property, to conduct an analysis evaluating whether each unit of the state military forces has adequate facility space to ensure that ongoing operations are maintained.

#### **House Bill 1127**

**Effective:** 1-1-12

**House Author:** Gutierrez

**Senate Sponsor:** Van de Putte

House Bill 1127 amends the Property Code to require the following notices to contain a prescribed statement or certain information regarding the rights or relief that may be available to a tenant, debtor, or owner, as applicable, who is serving on active military duty: a notice to a defendant in a citation for a suit filed by a landlord seeking to recover possession of the premises, a notice in regard to the sale of real property under a deed of trust or other contract lien served on a debtor in default under that trust or lien, and the notice required to be given to a property owner by a property owners' association before the association is authorized to take certain enforcement action against the owner.

#### **House Bill 2417**

**Effective:** 9-1-11

**House Author:** Flynn

**Senate Sponsor:** Rodriguez

House Bill 2417 amends the Government Code to update the Texas Code of Military Justice. Among other provisions, the bill revises provisions relating to the imposition of nonjudicial punishment by a commanding officer and the court-martial jurisdiction of each state military force. The bill revises punishments that a general court-martial, special court-martial, or summary court-martial may adjudge and prohibits trial counsel or defense counsel detailed for a general court-martial from being under the supervision or command of the other counsel unless the accused and the prosecution expressly waive this restriction. The bill prohibits a person subject to the Texas Code of Military Justice from considering or evaluating, in determining the advancement, assignment, transfer, or retention of a member of the state military forces, the



performance of duty of a member of the state military forces as a witness in a court-martial. The bill specifies that a person subject to the Texas Code of Military Justice who commits a Penal Code offense is considered to violate the Texas Code of Military Justice and is subject to punishment under that code.

**House Bill 2624**

**Effective:** 9-1-11

**House Author:** Sheffield

**Senate Sponsor:** Van de Putte et al.

House Bill 2624 amends the Family Code and the Code of Criminal Procedure to establish additional notice procedures applicable to circumstances involving family violence or other criminal conduct by a person who is a member of the state military forces or who is serving in the United States armed forces in an active-duty status. The bill requires each presentence investigation conducted under provisions relating to community supervision to include information regarding whether the defendant is a current or former member of the state military forces or whether the defendant is currently serving or has previously served in the United States armed forces in an active-duty status. The bill requires the investigation to make certain additional determinations if the defendant has served in an active-duty status and requires a copy of the defendant's military discharge papers and military records, if available, to be included in the investigation report provided to the judge.

**Senate Bill 101**

**Effective:** 9-1-11

**Senate Author:** Van de Putte et al.

**House Sponsor:** Farias

Senate Bill 101 amends the Property Code to specify, with respect to limitations on the sale, foreclosure, or seizure of certain property owned by a member of the military to enforce an obligation secured by a mortgage, deed of trust, or other contract lien, that such an obligation includes a lien securing payment of an assessment on that property, including a property owners' association assessment. The bill requires certain notices of a sale of real property under provisions relating to nonjudicial foreclosure on residential property to state the name and address of the sender of the notice and to include a specified statement requesting the debtor to provide written notice of active duty military service by the debtor or the debtor's spouse, if applicable.

**Senate Bill 1159**

**Effective:** 6-17-11

**Senate Author:** Wentworth

**House Sponsor:** Jackson

Senate Bill 1159 amends the Family Code to establish exceptions to Texas residency requirements for certain spouses of military personnel for purposes of filing a suit for dissolution of a marriage in Texas. The bill makes exceptions to those requirements for time spent by a person outside Texas or outside the county of residence while accompanying the person's spouse in the spouse's service of the armed forces or other service of the United States or of this state and for a person not previously a resident of Texas who is accompanying the person's spouse during the spouse's military service at one or more military installations in Texas for at least the last six months and at a military installation in a Texas county for at least the last 90 days.

**Senate Bill 1732**

**Effective:** 6-17-11

**Senate Author:** Van de Putte

**House Sponsor:** Guillen

Senate Bill 1732 amends the Government Code to authorize the adjutant general to establish and contract for the operation of not more than three military-type post exchanges on any real property under the management and control of the adjutant general's department and to designate facilities located on department property as a post exchange. The bill authorizes a post exchange to sell, lease, or rent goods and services, including tobacco products, prepared foods, and beer and wine only to certain military personnel, full-time employees of the adjutant general's

department, and their dependents. The bill prohibits such a post exchange from selling distilled spirits and authorizes the sale of beer and wine for off-premises consumption if the operator of the exchange holds the appropriate license or permit issued by the Texas Alcoholic Beverage Commission. The bill requires the adjutant general to adopt rules to govern the post exchanges.

Senate Bill 1732 amends the Tax Code to exempt from the state sales and use tax a taxable item sold, leased, rented to or by, or stored, used, or consumed by a post exchange.

## Benefits and Services

### House Bill 1080

**Effective:** 6-17-11

**House Author:** Gallego

**Senate Sponsor:** Hinojosa

House Bill 1080 amends the Parks and Wildlife Code to exempt an honorably discharged veteran of the United States armed forces or a person who is on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard from any requirement to complete the live firing portion of a hunter education course under provisions of law relating to a hunter education program or course administered or offered by the Parks and Wildlife Department or the Parks and Wildlife Commission.

### House Bill 1148

**Effective:** 9-1-11

**House Author:** Smith, Wayne

**Senate Sponsor:** Hinojosa et al.

House Bill 1148 amends the Transportation Code provision exempting certain disabled veterans from the payment of fees for a driver's license to also include an exemption for the payment of fees for a personal identification certificate.

### House Bill 1178

**Effective:** 6-17-11

**House Author:** Flynn

**Senate Sponsor:** Birdwell

House Bill 1178 amends the Government Code to prohibit any employer from terminating the employment of any employee who is a member of the state military forces of Texas or any other state because the employee is ordered to authorized training or duty by a proper authority. The bill makes a violation of provisions of law relating to the reemployment of such a person an unlawful employment practice. The bill removes provisions entitling a person injured by such a violation to certain damages, establishing a defense to an action for damages, and prohibiting an employer from delaying or attempting to defeat a reemployment obligation by making certain documentation demands and instead authorizes the person to file a complaint with the Texas Workforce Commission (TWC) civil rights division. The bill establishes a process for filing, investigating, and resolving such a complaint, including procedures by which the TWC or the complainant may bring a civil action against the respondent to the complaint, and encourages the use of alternative dispute resolution. The bill authorizes a court to take certain action on finding that the respondent engaged in an unlawful employment practice as alleged in the complaint, including issuing injunctive relief, ordering additional equitable relief, and, if the practice was found to be intentional, awarding compensatory and punitive damages.

House Bill 1178 amends the Transportation Code to require the Texas Department of Motor Vehicles to issue specialty license plates for female active or former members of the United States armed forces, Texas National Guard, or Texas State Guard.

**House Bill 1274**  
**Effective:** 6-17-11

**House Author:** Pena et al.  
**Senate Sponsor:** Wentworth

House Bill 1274 amends the Transportation Code to define “military vehicle” for purposes of the exemption from the payment of a toll for an unmarked military vehicle conducting or training for emergency operations.

**House Bill 1404**  
**Effective:** 9-1-11

**House Author:** Sheffield et al.  
**Senate Sponsor:** Harris

House Bill 1404 amends the Family Code to provide that a parent conservator who is ordered to military duty, or another parent conservator, may file for a temporary order designating a person for possession of or access to a child in a suit affecting the parent-child relationship without the necessity of showing a material and substantial change of circumstances other than military deployment, military mobilization, or temporary military duty. The bill clarifies that a nonparent appointed as a designated person in such a temporary order is not required to pay child support and removes a provision relating to a temporary order that results in a change of circumstances sufficient to justify another temporary order modifying the child support obligations of a party. The bill grants to a nonparent designated person the rights and duties of a nonparent appointed as sole managing conservator under circumstances that do not involve military duty.

**House Bill 1784**  
**Effective:** 6-17-11

**House Author:** Farias  
**Senate Sponsor:** Van de Putte

House Bill 1784 amends the Government Code to require the Health and Human Services Commission (HHSC), the Texas Veterans Commission, the Veterans’ Land Board, and the Department of Aging and Disability Services (DADS), not later than December 1, 2011, to enter into a memorandum of understanding for the purposes of coordinating and collecting information about the use and analysis among state agencies of data received from the Public Assistance Reporting Information System and developing new strategies for state agencies to use system data in ways that generate fiscal savings for the state and maximize the availability of and access to benefits for veterans. The bill requires HHSC, the Texas Veterans Commission, and DADS to coordinate to assist veterans in maximizing the benefits available to each veteran by using the system and authorizes HHSC and the Texas Veterans Commission to determine the geographic scope of such efforts. The bill requires HHSC, the Texas Veterans Commission, the Veterans’ Land Board, and DADS, not later than October 1, 2012, to collectively submit a report containing specified information regarding the system to the governor and the Legislative Budget Board.

**House Bill 2851**  
**Effective:** 9-1-11

**House Author:** Mallory Caraway  
**Senate Sponsor:** Rodriguez

House Bill 2851 amends the Transportation Code to require the Department of Public Safety to establish a deferral program for surcharges assessed against a person who is a member of the United States armed forces on active duty deployed outside of the continental United States for a conviction of driving while a license is invalid, driving without financial responsibility, driving with suspended registration, or driving without a valid license.

**Senate Bill 201**  
**Effective:** 1-1-12

**Senate Author:** Uresti et al.  
**House Sponsor:** Callegari

Senate Bill 201 amends the Tax Code to authorize a 100 percent or totally disabled veteran who qualifies for a property tax exemption on the total appraised value of the veteran’s residence homestead on the basis of disability after January 1 of a tax year to receive the exemption for the applicable portion of that tax year immediately on qualifying for the exemption. The bill

provides for the proration of the amount of taxes due on the residence homestead to reflect the portion of the tax year subject to the tax exemption and, if the appraisal roll shows that such an exemption applicable to a property on January 1 of a year terminated during the year, provides a similar proration of the tax due against that homestead to reflect only the portion of the tax year remaining after the date the exemption is terminated.

If a 100 percent or totally disabled veteran qualifies for a property tax exemption with respect to the veteran's residence homestead after the amount of the tax due on the property is calculated, the bill requires a recalculation of the amount of tax due on the property, a correction of the tax roll, the mailing of a corrected tax bill if necessary, and, if the tax has been paid, a refund of the excess tax paid.

**Senate Bill 516**

**Effective:** See below

**Senate Author:** Patrick et al.

**House Sponsor:** Fletcher

Senate Bill 516 amends the Tax Code to entitle the surviving spouse of a 100 percent or totally disabled veteran who qualified for a residence homestead exemption from property taxes on the basis of a service-related disability when the disabled veteran died to a residence homestead exemption for the same property to which the disabled veteran's exemption applied if the surviving spouse has not remarried since the death of the disabled veteran and the property was the residence homestead of the surviving spouse when the disabled veteran died and remains as such. The bill entitles a surviving spouse who qualifies for such an exemption, if the surviving spouse subsequently qualifies a different property as the surviving spouse's residence homestead, to a tax exemption for the subsequently qualified homestead in an amount equal to the dollar amount of the tax exemption for the former homestead in the last year in which the surviving spouse received the exemption for that homestead if the surviving spouse has not remarried since the death of the disabled veteran. The surviving spouse is also entitled to receive from the chief appraiser of the appraisal district in which the former residence homestead was located a written certificate providing the information necessary to determine the amount of the exemption to which the surviving spouse is entitled on the subsequently qualified homestead.

The bill takes effect January 1, 2012, contingent on voter approval of a constitutional amendment proposed by Senate Joint Resolution 14.

**Senate Bill 910**

**Effective:** 6-17-11

**Senate Author:** Lucio

**House Sponsor:** Lozano

Senate Bill 910 amends the Government Code to require a court to excuse from appearance or attendance during the term of the court a state attorney called into active duty military service and sets out requirements for the attorney to delegate the attorney's responsibilities and notify the presiding judge of the court's administrative judicial region of the attorney's military duty, mobilization, or deployment and the identity of the attorney to whom responsibilities were delegated. The bill specifies that an active duty state attorney who complies with the delegation and notification requirements is not absent from office and has not vacated office.

**Senate Bill 1002**

**Effective:** 6-17-11

**Senate Author:** Van de Putte et al.

**House Sponsor:** Menendez

Current law makes the first lien against the revenue of an electric or gas utility system owned by a municipality with a population of more than one million that secures the payment of certain public securities issued or obligations incurred applicable to funding, as a necessary operations expense, for a bill payment assistance program for certain low-income utility system customers. Senate Bill 1002 amends the Government Code to include under this provision a bill payment

assistance program for utility system customers who are military veterans with a significantly decreased ability to regulate body temperature because of severe burns received in combat.

**Senate Bill 1477**

**Effective:** 9-1-11

**Senate Author:** Hegar

**House Sponsor:** Kleinschmidt

Senate Bill 1477 amends the Health and Safety Code to authorize a board of emergency services commissioners under certain circumstances to provide differential pay to an emergency services district employee who is a member of the state military forces or a reserve component of the United States armed forces who is called to active duty. The bill prohibits the combination of differential pay and military pay from exceeding the employee's actual gross pay from the district and excludes from military pay employee money received for specified purposes. The bill authorizes the board to extend the insurance benefits provided by the district to a district employee who is a member of the state military forces or a reserve component of the United States armed forces who is called to active duty and to the employee's dependents.

**Senate Bill 1635**

**Effective:** 6-17-11

**Senate Author:** Davis

**House Sponsor:** Farias

Senate Bill 1635 amends the Transportation Code to require the Texas Department of Motor Vehicles (TxDMV) to provide an opportunity for a person renewing a motor vehicle registration to voluntarily contribute to the fund for veterans' assistance. The bill sets out provisions relating to providing space to indicate such a contribution on each motor vehicle registration renewal notice and during the registration renewal process on the department's Internet website. The bill authorizes a county assessor-collector to credit all or part of the contribution to a registration fee under certain circumstances and makes its provisions apply only to a motor vehicle registration renewal notice issued for a registration that expires on or after January 1, 2012.

**Senate Bill 1660**

**Effective:** 6-17-11

**Senate Author:** Lucio

**House Sponsor:** Alvarado

Senate Bill 1660 amends the Government Code to expand the duties of the Texas Veterans Commission by requiring the commission, with the assistance and cooperation of the comptroller of public accounts, to inform and assist veterans and their families and dependents with respect to discovering and initiating claims for unclaimed property held by the United States Department of Veterans Affairs.

**Senate Bill 1736**

**Effective:** 6-17-11

**Senate Author:** Van de Putte et al.

**House Sponsor:** Castro et al.

Senate Bill 1736 amends the Labor Code to require the Texas Workforce Commission (TWC) to establish and administer the College Credit for Heroes demonstration program to identify, develop, and support methods to maximize academic or workforce education credit awarded by institutions of higher education to veterans and military servicemembers for military experience, education, and training obtained during military service in order to expedite the entry of veterans and military servicemembers into the workforce. The bill sets out provisions relating to requiring the TWC to work with other state agencies to accomplish the goals of the program, authorizing the TWC to award grants to certain entities, funding administration of the program, authorizing the TWC to adopt rules, and requiring the TWC to report to the legislature and the governor specified information relating to the program.



**Senate Bill 1737**

**Effective:** 9-1-11

**Senate Author:** Van de Putte

**House Sponsor:** Flynn

Senate Bill 1737 amends the Government Code to entitle an officer or employee of the state who is a member of the state military forces, a reserve component of the armed forces, or a member of a state or federally authorized Urban Search and Rescue Team to carry forward from one federal fiscal year to the next the net balance of unused accumulated leave that does not exceed 45 workdays. The bill also entitles a state employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose to receive paid emergency leave for not more than 22 workdays without loss of military leave.

**Senate Bill 1739**

**Effective:** 6-17-11

**Senate Author:** Davis et al.

**House Sponsor:** Pickett

Senate Bill 1739 amends the Government Code to remove the enhancement or improvement of veterans' assistance programs, including veterans' representation and counseling, from the authorized uses of money appropriated to the Texas Veterans Commission fund for veterans' assistance.

**Senate Bill 1796**

**Effective:** 9-1-11

**Senate Author:** Van de Putte et al.

**House Sponsor:** Miller, Sid

Senate Bill 1796 amends the Government Code to establish the Texas Coordinating Council for Veterans Services to coordinate the activities of state agencies that assist veterans, servicemembers, and their families; coordinate outreach efforts that ensure those people are made aware of services; and facilitate collaborative relationships among state, federal, and local agencies and private organizations to identify and address relevant issues. The bill sets out provisions relating to the operation of the council.

## Special Recognitions

**House Bill 559**

**Effective:** 9-1-11

**House Author:** Sheffield et al.

**Senate Sponsor:** Hinojosa

House Bill 559 amends the Transportation Code to require the Texas Department of Motor Vehicles to issue specialty license plates for recipients of the Bronze Star Medal and Bronze Star Medal with Valor. The bill exempts a vehicle issued and displaying such license plates from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government when the vehicle is being operated by or for the transportation of the recipient of the specialty license plates.

**House Bill 1514**

**Effective:** 9-1-11

**House Author:** Isaac et al.

**Senate Sponsor:** Birdwell

House Bill 1514 amends the Transportation Code to require the Department of Public Safety to include the designation "VETERAN" on a driver's license issued to a person who has served in and been honorably discharged from the United States armed forces or the Texas National Guard if the person requests the designation and provides proof of that military service and honorable discharge. The bill requires the application for an original driver's license to provide space for an applicant to voluntarily list any military service qualifying the applicant to receive



## Military Forces and Veterans

a license with a veteran's designation and to include proof of the applicant's eligibility to receive a license with such a designation.

### **House Bill 2928**

**Effective:** 9-1-11

**House Author:** Farias

**Senate Sponsor:** Birdwell

House Bill 2928 amends the Transportation Code to exempt a vehicle issued and displaying Silver Star Medal specialty license plates from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government when the vehicle is being operated by or for the transportation of the recipient of the Silver Star Medal specialty license plates.

### **House Bill 3580**

**Effective:** 9-1-11

**House Author:** Frullo

**Senate Sponsor:** Duncan

House Bill 3580 amends the Transportation Code to require the Texas Department of Motor Vehicles to issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

### **Senate Bill 356**

**Effective:** 5-28-11

**Senate Author:** Watson et al.

**House Sponsor:** Kleinschmidt

Senate Bill 356 amends the Government Code to authorize the adjutant general to adopt rules and regulations relating to the Texas Iraqi Campaign Medal and the Texas Afghanistan Campaign Medal. The bill requires the Texas Iraqi Campaign Medal to be awarded to a person who was inducted into federal service from the Texas National Guard after March 19, 2003, in support of Operation Iraqi Freedom or after August 31, 2010, in support of Operation New Dawn. The bill requires the Texas Afghanistan Campaign Medal to be awarded to a person who was inducted into federal service from the Texas National Guard after October 6, 2001, in support of Operation Enduring Freedom. The bill specifies that each medal is awarded without regard to the place that the person was deployed while serving on active federal military duty.

### **Senate Bill 461**

**Effective:** 9-1-11

**Senate Author:** Williams

**House Sponsor:** Huberty

Senate Bill 461 amends the Transportation Code to require specialty license plates issued to certain members of the United States armed services who have participated in at least one combat parachute jump to include the words "U.S. Paratrooper."

### **Senate Bill 896**

**Effective:** 9-1-11

**Senate Author:** Estes

**House Sponsor:** Laubenberg

Senate Bill 896 amends the Transportation Code to add the father of a person who died while serving in the United States armed forces to the person's immediate family members to whom the Texas Department of Motor Vehicles must issue a specialty license plate. The bill requires the license plate to include the words "Gold Star Father."

**Senate Bill 1755**

**Effective:** 9-1-11

**Senate Author:** Van de Putte

**House Sponsor:** Smith, Wayne

Senate Bill 1755 amends the Transportation Code to require the Texas Department of Motor Vehicles to issue specialty license plates for recipients of the Distinguished Service Medal and sets out the design requirements of such license plates. The bill authorizes specialty license plates for veterans with disabilities issued to a person who is also entitled to a specialty license plate for a recipient of the Distinguished Flying Cross medal, a military specialty license plate for extraordinary service, or a specialty license plate for a recipient of the Legion of Merit medal, at the request of the person, to include one emblem from the other license plates to which the person is entitled.

**The summaries for the following bills are in the listed chapters:**

House Bill 1665 - Local Government

House Bill 3470 - Higher Education

Senate Bill 100 - Elections

Senate Bill 327 - Government Purchasing

Senate Bill 431 - Criminal Justice

Senate Bill 540 - Taxes and Tax Administration

Senate Bill 690 - Property Interests and Housing

Senate Bill 966 - Public Education

Senate Bill 1493 - Special Districts

Senate Bill 1733 - Occupational Regulation

Senate Joint Resolution 14 - Taxes and Tax Administration



# Occupational Regulation

This chapter covers legislation on issues relating to the regulation of certain occupations and professions, including license and permit requirements and fees, performance standards and restrictions, and penalties for violations. Legislation relating to occupations in the financial sector is in the **Business and Commerce** chapter. Legislation relating to medical and health care workers is in the **Health and Medical Occupations** chapter, and legislation relating to occupations in the insurance sector is in the **Insurance** chapter. Legislation relating to wages, unemployment compensation, workers' compensation, and workforce development is in the **Labor and Employment** chapter. Legislation relating to the licensing of law enforcement officers is in the **Law Enforcement** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

**House Bill 1179**  
**Effective:** 6-17-11

**House Author:** Flynn et al.  
**Senate Sponsor:** Deuell

House Bill 1179 amends the Occupations Code to establish that the minimum certification requirements established by the Texas Commission of Licensing and Regulation for property tax professionals apply to any registrant for certification and to remove the specification that those requirements apply to an employee of a taxing unit's tax office. The bill establishes in statute rather than by commission rule the deadline for a person registering as an appraiser to become certified as a registered professional appraiser and sets out procedures for obtaining the certification. The bill also sets out provisions governing registration of a registrant who has had a break in service and specifies conditions under which a registrant who has not obtained certification within the required time is entitled to a one-year extension to meet registration requirements. The commission is required to adopt rules as necessary to implement provisions relating to certification levels and requirements.

House Bill 1179 requires the commission to establish reasonable qualifications for reapplication for a registration by an applicant who does not qualify for an extension and sets out provisions governing reinstatement of a registration for a person who has not satisfied the requirements for certification as a property tax professional within the required time to apply for reinstatement of a registration. The bill authorizes the commission to adopt rules to allow a registrant to place a registration issued by the Texas Department of Licensing and Registration on inactive status in a specified manner.

**House Bill 1451**  
**Effective:** 6-17-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Whitmire et al.

House Bill 1451 amends the Occupations Code to enact the Commercial Dog and Cat Breeders Act prohibiting a person from acting as, offering to act as, or representing that the person is a dog or cat breeder in Texas unless the person holds a license under the provisions of the bill for each facility the person owns or operates in Texas. The bill requires the Texas Department of Licensing and Regulation (TDLR) to administer and enforce the bill's provisions and requires the Texas Commission of Licensing and Regulation to adopt rules necessary to administer and enforce those provisions, including the establishment of requirements for the issuance or renewal of a commercial breeder license issued to a dog or cat breeder.

House Bill 1451 establishes the eligibility and application requirements, the term of issuance, and the terms of renewal for a license issued to a dog or cat breeder, and specifies that such a

## Occupational Regulation

license is nontransferable. The bill sets out provisions relating to a prelicense inspection of a facility and the inspection process and establishes requirements for TDLR's denial, revocation, or suspension of a license. The bill sets recordkeeping and notification requirements for a licensed breeder and requires the commission by rule to establish the retention period for records required under the bill's provisions.

House Bill 1451 requires the commission to adopt rules establishing certain 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 and establishes requirements for those standards. The bill requires the commission by rule to establish reasonable and necessary fees in amounts sufficient to cover the costs of administering and enforcing the bill's provisions. The bill sets requirements for TDLR relating to the monitoring of licensed breeders and for making certain information relating to such breeders public information.

House Bill 1451 establishes a dog or cat breeder training and enforcement account as an account in the general revenue fund and sets out provisions relating to the maintenance of the account. The bill requires the commission by rule to establish training requirements and registration procedures for a third-party inspector and policies governing the acts of such an inspector. The bill sets requirements for TDLR relating to the inspection of each facility of a licensed breeder and sets out provisions relating to a breeder's violation of state law. The bill sets out provisions relating to an advisory committee to advise the commission and make recommendations on matters related to the administration and enforcement of the bill's provisions.

**House Bill 1779**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Watson

House Bill 1779 amends the Occupations Code to exempt a licensed social worker who is engaged in the practice of social work from the Private Security Act and to remove an employee performing investigative services for an entity regulated by the National Association of Securities Dealers from the list of persons exempt from that act.

**House Bill 1797**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Rodriguez

House Bill 1797 amends the Occupations Code to exempt from social worker licensing requirements a person who teaches social work at an institution of higher education or a private or independent institution of higher education to the extent the person confines the person's activities to teaching and does not otherwise engage in the practice of social work. The bill authorizes an applicant who possesses a doctoral or master's degree in social work from a graduate program that is in candidacy for accreditation by the Council on Social Work Education to take the master social worker license examination conducted by the Texas State Board of Social Worker Examiners and an applicant who possesses a baccalaureate degree in social work from an educational program that is in candidacy for accreditation by the council to take the baccalaureate social worker license examination conducted by the board.

**House Bill 1960**  
**Effective:** 9-1-11

**House Author:** Deshotel et al.  
**Senate Sponsor:** Jackson

House Bill 1960 amends the Occupations Code to make changes to the terms of a written agreement between a manufacturer or distributor and a dealer for the purchase and sale of new boats or new boat motors, including adding the requirement that the agreement be for a stated term of not less than three years, with certain exceptions. The bill establishes conditions for



evaluating the dealer's progress in meeting certain terms of the agreement at the end of the first year to determine whether to enter into a new three-year agreement. The bill requires a manufacturer to make reasonable efforts to provide a dealer with information regarding the dealer's compliance with performance standards and provides for the evaluation and adjustment of those standards. It prohibits a manufacturer from appointing another authorized dealer for the sale of the manufacturer's boats in a dealer's territory during the term of an agreement and prohibits a dealer from advertising or promoting the sale of the manufacturer's boats outside the dealer's territory, with some exceptions, and from using a broker in another dealer's territory to sell a manufacturer's boat.

House Bill 1960 establishes the conditions that constitute a default under an agreement by a boat manufacturer, distributor, or dealer, requires a manufacturer or distributor to give a dealer written notice of a default, and allows the dealer to cure the default within a specified cure period. The bill revises the circumstances under which a manufacturer or distributor is authorized to terminate an agreement with a dealer and under which a former dealer may continue to purchase parts and accessories to service the products covered by the agreement after a nonrenewal and to perform warranty work for the manufacturer's products. It amends provisions relating to a dealer's written claim for compensation from a manufacturer or distributor for warranty work; requires a manufacturer, on signing an agreement, to provide a dealer with a written statement of the approximate amount of time the manufacturer takes to deliver a part to the dealer; and changes the deadlines by which a manufacturer or distributor who terminates an agreement is required to repurchase certain items purchased by a dealer from the manufacturer or distributor. A manufacturer or distributor who violates provisions relating to boat manufacturers, distributors, and dealers is liable to the state for a civil penalty not to exceed \$500 for each violation, and the attorney general is authorized to sue to collect such a penalty and recover the reasonable expenses incurred in obtaining the penalty.

**House Bill 2490**

**Effective:** See below

**House Author:** Solomons

**Senate Sponsor:** Carona

House Bill 2490 amends the Occupations Code to prohibit a person from engaging in the business of purchasing and selling crafted precious metal unless the person is registered with the consumer credit commissioner as a dealer and to establish requirements and procedures relating to that registration, including eligibility, deadlines, and fees. The bill requires the Finance Commission of Texas to administer and enforce provisions relating to the sale of crafted precious metal to dealers and to adopt rules, not later than December 1, 2011, to implement these provisions. The bill authorizes the consumer credit commissioner to revoke a dealer's registration for a violation of these provisions and to assess an administrative penalty that does not exceed \$500. The bill entitles a dealer whose registration has been revoked to a hearing on the revocation and to a subsequent appeal to district court if the dealer is dissatisfied by the outcome of the hearing.

Previous law required the district attorney of the county in which a transaction involving crafted precious metal occurs to prescribe a form a dealer is required to submit for each transaction involving the crafted metal. The bill requires the consumer credit commissioner to prescribe the form. House Bill 2490 authorizes a peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen to send a notice to the dealer placing the item on hold for a period not to exceed 60 days. During this time, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer or by court order. A dealer who conducts business at a temporary location for a period of less than one year, rather than 90 days, is prohibited

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from engaging in the business of buying crafted precious metal unless the dealer files specified documents.

The bill takes effect September 1, 2011, except the provisions relating to registration as a dealer, a dealer's temporary location, and a criminal penalty take effect January 1, 2012.

### **House Bill 2519**

**Effective:** 9-1-11

**House Author:** Kuempel

**Senate Sponsor:** Watson

House Bill 2519 amends the Occupations Code to authorize a person to act as an auctioneer for an entity if the person holds a motor vehicle dealer general distinguishing number and the auction is for the purpose of auctioning motor vehicles, motorcycles, house trailers, trailers, or semitrailers.

### **House Bill 2643**

**Effective:** 6-17-11

**House Author:** Hamilton

**Senate Sponsor:** Watson

House Bill 2643 amends the Health and Safety Code to authorize the governing body of a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles to authorize the establishment and use by certain organized religious societies or sects, as specified by the bill, of a perpetual care cemetery located inside the boundaries of the municipality if the municipality determines that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

House Bill 2643 also revises provisions relating to the regulation of elevators, escalators, and related equipment. The bill, among other provisions regarding inspection, certification, and registration of contractors, requires that Texas Commission of Licensing and Regulation rules provide for (1) general liability insurance, with specified coverage amounts, as a condition of contractor registration; (2) submission and review of plans for installation or alteration of equipment; and (3) continuing education requirements for renewal of contractor registration. A contractor who registers with the department is required to designate a responsible party and each contractor's responsible party is required to complete continuing education requirements before the contractor may renew the contractor's registration.

In addition, House Bill 2643 amends and repeals certain provisions of the Occupations Code relating to the licensing and regulation of air conditioning and refrigeration contractors and technicians. It requires the Texas Commission of Licensing and Regulation to adopt rules providing for the licensing and registration of persons under the Air Conditioning and Refrigeration Contractor License Law, establishing fees necessary for the administration of the law, and implementing the requirements of that law as applicable to regulated persons, entities, and activities. Previous law required the executive director of the Texas Department of Licensing and Regulation to set insurance requirements for a license holder whereas the bill requires the commission by rule to set those requirements. The bill, among other provisions, revises eligibility requirements for an applicant for an air conditioning and refrigeration contractor license and makes it a Class C misdemeanor for a person to knowingly engage in air conditioning and refrigeration maintenance work without holding a valid license and registration. The bill establishes conditions under which a person performing air conditioning and refrigeration related work is not required to obtain a valid registration and amends provisions relating to the air conditioning and refrigeration contractors advisory board, including requirements relating to the composition of the advisory board. Certain provisions relating to air conditioning and refrigeration technicians are revised by the bill, including provisions regarding registration, eligibility requirements, application procedures and fees, the issuance and term of a registration, and the limitations on a registrant.

**House Bill 2727**  
**Effective:** 6-17-11

**House Author:** Thompson  
**Senate Sponsor:** Whitmire

House Bill 2727 amends the Occupations Code to include the application of semipermanent, threadlike eyelash extensions as a cosmetology service regulated by the Texas Department of Licensing and Regulation, creates a specialty license in eyelash extension application, and sets out provisions relating to requirements for an eyelash extension application training program. Among other provisions, the bill adds the application of such eyelash extensions to provisions relating to a specialty instructor license, a facialist specialty license, a specialty shop license, and a private beauty culture school license.

**House Bill 2742**  
**Effective:** 6-17-11

**House Author:** Kleinschmidt  
**Senate Sponsor:** Estes

House Bill 2742 amends the Occupations Code to include among the conditions under which a person is engaged in the business of structural pest control for purposes of the Texas Structural Pest Control Act that a person offers to perform or advertises for or solicits the person's performance of any of certain pest control services for compensation, including such services performed as a part of the person's employment.

**House Bill 3167**  
**Effective:** 9-1-11

**House Author:** Callegari  
**Senate Sponsor:** Carona

House Bill 3167 repeals provisions of the Occupations Code relating to the regulation of talent agencies and personnel services and sets out transitional provisions for the deregulation of such entities and activities.

**House Bill 3287**  
**Effective:** 9-1-11

**House Author:** Giddings  
**Senate Sponsor:** Carona

House Bill 3287 amends the Occupations Code to expand the maximum period during which a person may renew a license issued by the Texas Department of Licensing and Regulation (TDLR) from less than one year after the expiration of a license to less than 18 months after the expiration of a license. Previous law allowed a person to renew a license that had been expired a year or more. The bill allows a person whose license has been expired for at least 18 months but less than three years, on approval by the executive director of TDLR, to renew the license by paying to TDLR a renewal fee that is equal to two times the regular fee.

**House Bill 3510**  
**Effective:** 9-1-11

**House Author:** Hamilton  
**Senate Sponsor:** Carona

House Bill 3510 amends Occupations Code provisions relating to the regulation of the towing, booting, and storage of vehicles. The bill updates and revises provisions relating to reporting by a vehicle storage facility to a law enforcement agency, certain notice requirements imposed on a vehicle storage facility, license renewal requirements for the holder of a towing and booting license, conditions under which a booting operator is authorized to boot a vehicle in a parking facility without the vehicle owner's consent, and certain signage requirements.

House Bill 3510 specifies among the actions necessary for securing release of a towed vehicle from a vehicle storage facility the payment of charges for services regulated under the Vehicle Storage Facility Act or the Texas Towing and Booting Act and expands the forms of photo identification acceptable for the purpose of securing such a release to include photo identification issued by a foreign government. The bill authorizes the Texas Commission of Licensing and Regulation to adopt different rules applicable to each type of permit or license for tow trucks, towing operators, towing companies, booting companies, and boot operators

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and requires the commission to adopt requirements for a consent tow, private property tow, and incident management tow.

House Bill 3510 limits the amount a license or permit holder may charge a vehicle owner or operator for a nonconsent tow, prohibits a license or permit holder from charging a fee for a service related to a nonconsent tow that is not on a list of fees established by the Texas Department of Licensing and Regulation (TDLR) or a political subdivision, and authorizes TDLR to require a license or permit holder to refund the amount charged in excess of the amounts established by commission rule or by a political subdivision or the total amount charged for a service that is not on the list of authorized fees.

**House Bill 3570**

**Effective:** 9-1-11

**House Author:** Smithee

**Senate Sponsor:** Carona

House Bill 3570 amends the Occupations Code to prohibit a person from operating 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 unless the person has a combined single limit insurance policy currently in effect written by an insurance company authorized to conduct business in Texas or by a surplus lines insurer, or has an independently procured policy, 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.

**Senate Bill 867**

**Effective:** 9-1-11

**Senate Author:** Deuell

**House Sponsor:** Jackson

Senate Bill 867 amends the Occupations Code to require a state agency administering a licensing examination to provide reasonable accommodations to an examinee diagnosed as having dyslexia. The bill requires state agencies to adopt rules to implement this requirement not later than December 1, 2011.

**Senate Bill 1168**

**Effective:** 5-20-11

**Senate Author:** Carona

**House Sponsor:** Harper-Brown

Under previous law, a person was prohibited from owning a personnel service that operated in Texas unless the person held a certificate of authority issued by the executive director of the Texas Department of Licensing and Regulation. Senate Bill 1168 repeals provisions of the Occupations Code relating to the certification process for personnel service owners and the regulation of personnel services.

**Senate Bill 1170**

**Effective:** 9-1-11

**Senate Author:** Carona

**House Sponsor:** Hamilton

Senate Bill 1170 amends Occupations Code provisions relating to the regulation of barbers and cosmetologists to require the Texas Commission of Licensing and Regulation to adopt rules providing for the issuance of a Class A barber certificate to a cosmetology operator licensee and the issuance of a cosmetology operator license to a Class A barber certificate holder. An applicant for a crossover license must meet certain training and examination requirements. The bill revises and harmonizes provisions governing age, education, and work experience eligibility requirements for a barber instructor license and a cosmetology instructor license. The bill establishes a shampoo apprentice permit, a barber technician/manicurist specialty license, a barber technician/hair weaving specialty license, an eyelash extension specialty license, and a manicurist/esthetician specialty license. The term “facialist” is replaced with the term “esthetician.”

Current law allows cosmetology to be taught in public schools, and Senate Bill 1170 provides for barbering to be taught in public schools if certain permitting requirements are met. The bill authorizes the Texas Department of Licensing and Regulation (TDLR) to allow for the early written examination of a student seeking a Class A barber certificate or cosmetology operator license in a publicly funded barber or cosmetology school who has completed 900 hours of instruction in a department-approved training program and retains current law authorizing the early written examination of a student seeking such a certificate or license in a private barber or cosmetology school who has completed 1,000 hours of such instruction. The bill decreases facilities and equipment requirements for certain barber schools and beauty culture schools based on the population of the political subdivision in which the facility is located, allowing a facility equipped for as few as 10 students under certain conditions. The bill revises provisions governing barber school instructors, including raising the required instructor-to-student instructor ratio from one-to-one to one-to-three. The bill limits the types of devices that may be used to clean, disinfect, and sterilize or sanitize each metal instrument before performing certain manicure and pedicure related services to include an autoclave or dry heat sterilizer and an ultraviolet sanitizer.

Senate Bill 1170 revises provisions setting out the requirements for the refund policy of a barber school and a beauty culture school by establishing that a refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, rather than clock hours, as specified by an enrollment agreement, contract, or other document acceptable to TDLR. The bill requires TDLR to conduct a study that analyzes certain elements of the performance of barber schools and beauty culture schools, including the payment of refunds, make recommendations for improving the payment of refunds to eligible students, and report the study results to certain legislative committees by September 1, 2012.

**Senate Bill 1231**  
**Effective:** 9-1-11

**Senate Author:** Estes  
**House Sponsor:** Laubenberg

Senate Bill 1231 amends provisions of the Occupations Code relating to the regulation of health spas by the secretary of state under the Health Spa Act. The bill changes the date until which a holder of a health spa operator's certificate of registration must maintain the required security with the secretary of state and removes a provision requiring the secretary of state to perform certain actions if the security is canceled. The bill revises provisions relating to the denial and revocation of an exemption from security requirements, the filing of a refund claim by a health spa member against a health spa's security due to the health spa's closing or relocation, and the notice required to be posted before the health spa closes or relocates. The bill establishes the circumstances under which the secretary of state may permanently revoke a certificate of registration based on the certificate holder's failure to maintain the required security.

**Senate Bill 1630**  
**Effective:** 6-17-11

**Senate Author:** Birdwell  
**House Sponsor:** Fletcher

Senate Bill 1630 amends the Occupations Code to expand the residential appliance installer's scope of work on certain pool-related electrical devices to include work on a device that is at a pool located on a business property or a municipally owned property, as well as at a pool located on a residential property.

**Senate Bill 1733**  
**Effective:** 6-17-11

**Senate Author:** Van de Putte  
**House Sponsor:** Menendez

Senate Bill 1733 amends the Occupations Code to require a state agency that issues a license to adopt rules for the issuance of the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and who either holds a



current license issued by another state that has licensing requirements that are substantially equivalent to Texas requirements or, within the five years preceding the application date, held the license in Texas that expired while the applicant lived in another state for at least six months. The rules must include provisions to allow alternative demonstrations of competency to meet license requirements. The executive director of a state agency may issue a license to such an applicant by endorsement in the same manner as the Texas Commission of Licensing and Regulation.

## **Amusements, Gaming, and Sports**

### **House Bill 254**

**Effective:** 9-1-11

**House Author:** Hilderbran et al.

**Senate Sponsor:** Wentworth

House Bill 254 amends the Texas Racing Act to require the Texas Racing Commission to establish as Texas Derbies the following annual stakes races:

- one race open to three-year-old Thoroughbreds
- one race open only to three-year-old Texas-bred Thoroughbreds
- one race open to three-year-old quarter horses
- one race open only to three-year-old Texas-bred quarter horses

The bill sets out provisions relating to race conditions, entrance qualifications, and the preference system used to determine race finalists. The date and location of each derby is determined by the commission in consultation with specified entities.

House Bill 254 requires the commission to appoint a state veterinarian to conduct a prerace examination of each horse entered in a race and sets out requirements for the examination. The bill establishes a Texas Derby escrow purse fund and sets out procedures governing the use of the fund. The initial Texas Derby may not be held before January 1, 2015.

### **House Bill 457**

**Effective:** 5-27-11

**House Author:** Craddick

**Senate Sponsor:** Nelson

House Bill 457 amends the Occupations Code to provide an exception to the prohibition against a nonprofit organization qualified to conduct a charitable raffle promoting or advertising the raffle statewide if the promotion or advertisement is made on the organization's Internet website or through a publication or solicitation, including a newsletter, social media, or e-mail, provided only to previously identified supporters of the organization. The bill authorizes a member of the organization who is employed by the organization to organize and conduct a raffle but prohibits the member's work organizing or conducting the raffle from being more than a de minimis portion of the member's employment with the organization.

### **House Bill 1123**

**Effective:** 9-1-11

**House Author:** Dutton

**Senate Sponsor:** West

House Bill 1123 amends the Occupations Code to prohibit a person who is not an individual from registering as an athlete agent in Texas and establishes that a certificate of registration as an athlete agent is for either a professional athlete agent certificate or a limited athlete agent certificate. The bill sets out terms and requirements for registering as a professional athlete agent, establishes the terms under which an agent contract with an athlete is void, and expands the information an applicant is required to provide for both an original and a renewal of registration.

House Bill 1123 requires a registered athlete agent to notify the secretary of state of the athlete agent's decertification as an agent or the agent's conviction of a crime that in Texas is an offense other than a Class C misdemeanor. The bill sets out requirements relating to the surety bond



an athlete agent must deposit with the secretary of state. The bill amends provisions relating to the form for an agent contract or financial services contract and extends the deadline by which a registered athlete agent is required to file with certain persons a copy of an agent contract or financial services contract. The bill expands the prohibited actions for an athlete agent and sets out provisions relating to an administrative penalty for a violation of these prohibitions. The bill sets terms for revoking or refusing to renew or issue an agent's or applicant's certificate of registration.

House Bill 1123 makes it a third degree felony for an athlete agent to intentionally or knowingly furnish a thing of value to an athlete or an individual related to the athlete within the second degree by affinity or consanguinity before the athlete completes the athlete's last intercollegiate sports contest or to intentionally or knowingly commit an act or cause a person to commit an act on the athlete agent's behalf that causes an athlete to violate a rule of the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member. The secretary of state is required to send notice of an athlete agent's conviction of an offense for violating provisions relating to athlete agents or a rule under those provisions to each national professional sports association that has certified the agent.

House Bill 1123 removes the authority of an institution of higher education to file suit for damages against a former athlete who causes an institution to be adversely affected by the athlete's violation of provisions relating to athlete agents. The bill authorizes an athlete to file suit against an athlete agent for damages if the athlete is adversely affected by an athlete agent's violation of a certain prohibition against the agent under certain conditions and establishes what constitutes an agent adversely affecting an athlete. The bill amends provisions relating to the secretary of state's requirement to publish information prescribing compliance responsibilities of an institution of higher education governing athlete agents and sets out procedural provisions governing a change to the compliance responsibilities.

House Bill 1123 repeals provisions of the Occupations Code relating to an exemption from bond requirements for an athlete agent who enters into only an agent contract with an athlete, relating to registration as a corporation, association, or partnership, and relating to supplemental application requirements.

**House Bill 2271**  
**Effective: 9-1-11**

**House Author:** Anchia  
**Senate Sponsor:** Hinojosa

House Bill 2271 amends the Texas Racing Act to continue the Texas Racing Commission until September 1, 2017. In addition to across-the-board sunset recommendations, the bill requires the commission to designate racetrack licenses as either active or inactive and to develop renewal criteria for licenses designated as inactive; clarifies the commission's authority to revoke, suspend, or refuse to renew a license; enhances the authority of the commission's executive director over decisions made by stewards and judges; authorizes the commission at any time to require racetrack license holders to post security; caps the amount of funds the comptroller of public accounts may sweep from the commission's account; clarifies that all unlicensed entities are prohibited from accepting wagers placed by Texas residents; modifies the commission's approach to occupational licensing; removes the current \$200 limit on automated teller machine withdrawals at racetracks; and allows the commission to determine the number of consecutive greyhound races that constitute a performance.

House Bill 2271 amends the Education Code to abolish the Equine Research Account Advisory Committee and to continue the authority of Texas AgriLife Research to expend appropriated equine research account funds.

**House Bill 2728**  
**Effective:** 9-1-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Van de Putte

Under previous law governing the operation and regulation of charitable bingo, a crime of moral turpitude included any offense that was classified in Texas as a Class A misdemeanor and put the honesty and integrity of the individual who committed the offense in question. House Bill 2728 amends the Occupations Code to revise that provision to include simply any Class A misdemeanor defined by another Texas law as a crime of moral turpitude.

House Bill 2728 adds the revoking or suspending of a commercial lessor's license by the Texas Lottery Commission to actions that preclude a licensed authorized organization that conducts bingo lawfully at premises under a commercial lessor's license that is part of an individual's estate from continuing to conduct bingo at those premises after the license holder dies or becomes incapacitated. The bill extends to the commission the authorization to temporarily or permanently enjoin the conduct of bingo at premises under a commercial lessor's license and establishes that grounds for enjoining such conduct include the showing of sufficient cause by the commission for revoking or suspending the license.

**Senate Bill 1342**  
**Effective:** 9-1-11

**Senate Author:** Seliger  
**House Sponsor:** Geren

Current law lists certain expenses that are reasonable or necessary to conduct bingo that are excepted from the prohibition against certain items of expense being incurred or paid in connection with the conduct of bingo. Senate Bill 1342 amends the Occupations Code to include among those expenses an expense for fees for bingo chairpersons, operators, managers, and salespersons and an expense for health insurance or health insurance benefits for bingo chairpersons, operators, managers, salespersons, callers, cashiers, and ushers. The bill revises provisions relating to the value of health insurance or health insurance benefits provided by an authorized organization licensed to conduct bingo.

## **Engineering and Construction**

**House Bill 1625**  
**Effective:** 9-1-11

**House Author:** Brown  
**Senate Sponsor:** Carona

House Bill 1625 amends the Occupations Code to make provisions governing continuing education requirements for the renewal of an electrical apprentice license applicable to the renewal of an electrical sign apprentice license.

**House Bill 2067**  
**Effective:** 5-28-11

**House Author:** Callegari  
**Senate Sponsor:** Seliger

House Bill 2067 amends the Occupations Code to exempt from The Texas Engineering Practice Act an evaluation of oil and gas resources that is done by an engineer licensed in a state that does not prohibit engineers licensed in Texas 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.

**House Bill 2284**  
**Effective:** 9-1-11

**House Author:** Hardcastle  
**Senate Sponsor:** Deuell

House Bill 2284 amends the Occupations Code to establish that the practice of engineering does not include the practice of architecture and to prohibit engineers from engaging in or offering

to engage in the practice of architecture, with specified exceptions. The bill establishes what constitutes “engineering plans and specifications” and “architectural plans and specifications” and sets out the tasks that are within the scope of practice of both engineering and architecture and the activities that may be performed by either an engineer or an architect. The bill requires the Texas Board of Architectural Examiners to allow a graduate student of engineering to enroll in the intern development program before the applicant may take the examination to be a registered architect and requires the board to maintain a list of engineers licensed under The Texas Engineering Practice Act who are authorized to engage in the practice of architecture. The bill repeals provisions of the Occupations Code relating to the Joint Advisory Committee on the Practice of Engineering and Architecture.

**House Bill 2376****Effective:** 9-1-11**House Author:** Hamilton**Senate Sponsor:** Jackson

House Bill 2376 amends the Occupations Code to authorize the Texas State Board of Plumbing Examiners to choose not to investigate a complaint of a violation of provisions relating to the regulation of plumbers in which the person filing the complaint and the person who is the subject of the complaint are engaged in litigation related to the subject matter of the complaint until the outcome of the litigation is finally determined if the board determines the complaint process is being abused. The bill provides an exception to this provision for a violation that may pose a threat to health or safety.

House Bill 2376 prohibits a person from designing a multipurpose residential fire protection sprinkler system for installation unless the person is a licensed master plumber and holds an endorsement as a multipurpose residential fire protection sprinkler specialist. A master plumber who holds this endorsement is not required to hold a license or registration issued by another state agency to design the sprinkler system for installation. The bill requires a person to complete an approved training program before working as a responsible master plumber and revises the requirements relating to a certificate of insurance for a plumbing permit issued by a political subdivision.

**House Bill 2507****Effective:** 9-1-11**House Author:** Chisum**Senate Sponsor:** Seliger

House Bill 2507 amends the Occupations Code to make it a Class C misdemeanor for a person, unless exempt from irrigator licensing requirements, to install an irrigation system without holding an occupational license issued by the Texas Commission on Environmental Quality.

**Real Estate****House Bill 1146****Effective:** See below**House Author:** Kuempel et al.**Senate Sponsor:** Carona

House Bill 1146 amends the Occupations Code to enact the Texas Appraisal Management Company Registration and Regulation Act for the purpose of establishing and enforcing standards relating to appraisal management services for appraisal reports on residential properties located in this state with fewer than five units. The bill sets terms for an advisory committee to advise the board and make recommendations on matters related to the regulation of appraisal management companies. The bill makes it a Class A misdemeanor for a person to act or attempt to act as an appraisal management company without being registered in accordance with the bill’s provisions.

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House Bill 1146 makes provisions of the act inapplicable to certain persons, departments, or units within specified financial institutions and appraisal management companies and establishes prohibited acts for appraisal management companies. The bill requires the board to establish application, renewal, and other fees for an appraisal management company to register. The bill establishes eligibility requirements and application requirements for original and renewal registrations, specifies a date of expiration for a registration that is not renewed, and requires the board to adopt rules regarding the renewal of a registration under the act. The bill sets terms for the board's denial of a registration and sets out requirements for a registered appraisal management company relating to the licensure or certification of a person performing an appraisal review for the company. The bill establishes recordkeeping requirements for a registered company or applicant for registration.

House Bill 1146 requires an appraisal management company to meet certain requirements relating to the timeliness and the amount of appraiser compensation, and authorizes an appraiser who is aggrieved relating to such compensation to file a complaint with the board under certain conditions. The bill requires an appraisal management company to refer unethical or unprofessional conduct to the board and sets out terms and procedures for removing an appraiser from the appraisal panel of an appraisal management company. The bill sets out procedural provisions relating to an internal independent or external third-party dispute resolution process. The bill establishes the disciplinary powers of the board and authorizes the board to impose an administrative penalty against a person who violates the provisions of the Texas Appraisal Management Company Registration and Regulation Act. The bill sets out provisions relating to filing a written complaint with the board.

House Bill 1146 establishes the general subpoena authority of the board and provides requirements relating to the written notification of an alleged violation and proposed penalty and provisions relating to paying the penalty or requesting a hearing on the board's determination. The bill establishes procedures relating to the temporary suspension of a person's registration and sets out terms relating to a contested case hearing involving an appraisal management company. The bill authorizes the board to institute an action in its own name against any person to enjoin a violation of the act or of a rule adopted by the board under the act and sets out requirements relating to such an injunction. A person who receives consideration for engaging in an activity for which registration is required under the act and who is not registered is liable for a civil penalty and sets out provisions relating to the amount and recovery of such a penalty. The bill takes effect September 1, 2011, except the provisions relating to disciplinary actions and procedures, administrative penalties, and other enforcement actions take effect March 1, 2012.

**House Bill 2375**  
**Effective:** 5-27-11

**House Author:** Hamilton  
**Senate Sponsor:** Carona

House Bill 2375 amends the Occupations Code to expand the stated purpose of the Texas Appraiser Licensing and Certification Act to include the enforcement of standards for the appraisal of real property. The bill updates provisions establishing the appraisal-related activities that are not expressly prohibited by the act and the activities for which a certificate or license is required. A person is prohibited from performing an appraisal of real estate unless the person is licensed or certified as an appraiser, registered as a temporary out-of-state appraiser, or acting as an appraiser trainee under the sponsorship of a certified appraiser.

House Bill 2375 amends provisions relating to the authority of the Texas Appraiser Licensing and Certification Board and authorizes the board to adopt rules relating to procedures for trainee approval. The bill sets out application requirements for licensure or certification as an appraiser, including terms for renewal and related fees, sets out provisions relating to the board's issuance

of a reciprocal certificate or license to an applicant from another state, and sets out procedural provisions governing a reciprocal certificate or license.

House Bill 2375 also limits the number of times an applicant is authorized to attempt the licensing examination, authorizes certain persons to obtain an extension of a temporary registration, and authorizes a person to renew an approval as an appraiser trainee. The bill amends provisions governing procedures involving a complaint filed against an appraiser for an alleged violation and involving a person whose certificate or license has been revoked or a person who has surrendered a certificate or license issued by the board.

House Bill 2375 sets out provisions governing a disciplinary panel to determine whether a person's license or certification to practice should be temporarily suspended and expands the authority of the board to impose an administrative penalty for any violation of the Texas Appraiser Licensing and Certification Act or a rule adopted or order issued by the board.

**Senate Bill 747**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Hamilton

Senate Bill 747 updates Occupations Code provisions governing the licensing of real estate agents and brokers, including provisions relating to educational requirements and education programs and courses of study, eligibility for licensure, applicability of The Real Estate License Act, original and renewal license application content and procedures, and maintenance of certain licensee contact information.

Senate Bill 747 prohibits a business entity from acting as a broker unless the business entity holds a license issued under The Real Estate License Act. The bill revises the eligibility requirements to receive an original or renewal certificate of registration to sell, buy, lease, or transfer an easement or right-of-way for another for use in connection with telecommunication, utility, railroad, or pipeline service and requires an applicant for such a certificate to comply with the criminal history record check requirements for a real estate agent or broker.

Senate Bill 747 authorizes the Texas Real Estate Commission (TREC) to solicit and accept a gift, grant, donation, or other item of value from any source to pay for any activity under provisions of the act or provisions governing real estate inspectors or real estate appraisers. The bill authorizes the TREC to suspend or revoke an accreditation of a real estate educational program or course of study or take any other disciplinary action authorized by The Real Estate License Act if the provider of an educational program or course of study violates the act or a rule adopted under the act.

**Senate Bill 1353**  
**Effective:** 5-28-11

**Senate Author:** Eltife et al.  
**House Sponsor:** Solomons et al.

Senate Bill 1353 amends the Business & Commerce Code to make statutory provisions governing deceptive trade practices and consumer protection inapplicable to a claim against a person licensed as a broker or salesperson under The Real Estate License Act arising from an act or omission by the person while acting as a broker or salesperson. The bill makes this exemption inapplicable to an express misrepresentation of a material fact that cannot be characterized as advice, judgment, or opinion; a failure to disclose information in violation of a specified provision of law governing deceptive trade practices involving the disclosure of information concerning goods or services; or an unconscionable action or course of action that cannot be characterized as advice, judgment, or opinion.



## Occupational Regulation

### **Senate Bill 1812**

**Effective:** 9-1-11

**Senate Author:** Nichols et al.

**House Sponsor:** Hamilton

Senate Bill 1812 amends the Occupations Code to require an applicant for an original or renewal certificate of registration to sell, buy, lease, or transfer an easement or right-of-way to comply with criminal history record check requirements in The Real Estate License Act.

## **Veterinary Medicine**

### **House Bill 412**

**Effective:** 9-1-11

**House Author:** Aycock

**Senate Sponsor:** Hegar

House Bill 412 amends the Occupations Code to authorize the State Board of Veterinary Medical Examiners to issue a disciplinary order directing a veterinarian to participate in the peer assistance program under the Veterinary Licensing Act if the board determines that the veterinarian is an impaired professional, defined as an individual whose ability to perform a professional service is impaired by chemical dependency on drugs or alcohol or by mental illness.

### **House Bill 413**

**Effective:** 9-1-11

**House Author:** Aycock

**Senate Sponsor:** Hegar

House Bill 413 amends the Occupations Code to establish that the veterinarian-client confidentiality privilege provided by state law relating to practice by a veterinarian is waived by the client or owner of an animal treated by a veterinarian in a proceeding to substantiate and collect on a debt incurred for veterinary services. The bill expands the circumstances related to public health under which a veterinarian may provide certain information to a third party but not violate the privilege. The bill requires a public health authority that receives information under the bill's provisions to maintain the confidentiality of the information and prohibits the authority from disclosing the information under state public information laws and from using the information for a purpose that does not directly relate to the protection of public health and safety.

### **House Bill 414**

**Effective:** 9-1-11

**House Author:** Aycock et al.

**Senate Sponsor:** Hegar

House Bill 414 amends the Occupations Code to prohibit a person from performing equine dentistry unless the person is a veterinarian or a licensed equine dental provider under the supervision of a veterinarian. The bill sets out application requirements and qualifications for an equine dental provider license, which is to be issued by the Board of Veterinary Medical Examiners, establishes the responsibility and scope of practice of the license holder, establishes continuing education requirements for renewal of the license, and makes related changes. The bill requires the board to develop and administer a jurisprudence examination and to adopt rules and procedures to implement the bill's provisions. The bill provides for the establishment of the equine dental provider advisory committee and amends the Government Code to entitle the board to obtain criminal history record information from the Department of Public Safety for equine dental provider licensing purposes.



**Senate Bill 811**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Hardcastle

Senate Bill 811 amends provisions of the Occupations Code relating to the regulation of the practice of veterinary medicine. The bill authorizes the State Board of Veterinary Medical Examiners to order a veterinarian who is subject to disciplinary action based on a finding that the veterinarian is impaired by chemical dependency or mental illness to participate in the peer assistance program for veterinarians. The bill authorizes the board to contract with a board-approved entity to conduct examinations for a veterinarian license, establishes qualifications for the issuance of a temporary veterinarian license, and provides that the veterinarian-client confidentiality privilege is waived by the client or the owner of the animal treated by the veterinarian in a proceeding to substantiate and collect on a claim for the provision of veterinary services. The bill eliminates an exemption from regulation for certain foreign veterinary graduates who are participating in certain extern or preceptor programs.

**The summaries for the following bills are in the listed chapters:**

House Bill 965 - Environment  
House Bill 1510 - Property Interests and Housing  
Senate Bill 248 - Agriculture  
Senate Bill 694 - Environment  
Senate Bill 1600 - Law Enforcement



## Open Government and Privacy

This chapter covers legislation on issues relating to public access to governmentally held information, including the open records law, the open meetings law, confidentiality, and disclosability. Legislation relating to a governmental entity's access to criminal history information can be found in the chapter containing legislation on the governmental entity. Related legislation that is summarized in other chapters is listed at the end of this chapter.

**House Bill 1046**  
**Effective:** 6-17-11

**House Author:** Fletcher  
**Senate Sponsor:** Huffman

State open records law excepts information relating to the home addresses, telephone numbers, and social security numbers and personal family information of certain individuals from required disclosure, and the Tax Code makes confidential home address information in the property appraisal records of certain individuals if they choose to restrict public access to that information. House Bill 1046 amends the Government Code and the Tax Code to make those provisions applicable to a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement.

**House Bill 1500**  
**Effective:** 6-17-11

**House Author:** White  
**Senate Sponsor:** Nichols

House Bill 1500 amends the Government Code to authorize the commissioners courts of all counties, rather than only counties with a population of 400,000 or more, to conduct a closed meeting to deliberate certain business and financial issues related to a contract being negotiated.

**House Bill 1678**  
**Effective:** 6-17-11

**House Author:** Burkett et al.  
**Senate Sponsor:** Estes

House Bill 1678 amends the Election Code to make meetings of a county election commission and a joint elections commission subject to the state's open meetings law. The bill requires a commission, in addition to posting notice of a commission meeting as required by the open meetings law, to provide personal written notice of a commission meeting to the county elections administrator or joint elections administrator, as applicable, at least 72 hours before the scheduled time of the meeting as prescribed by the notice provisions of the open meetings law.

**House Bill 2313**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** Wentworth

House Bill 2313 amends the Government Code to add a county commissioners court to a current open meetings law provision applicable to municipalities that authorizes, under specified circumstances, certain reports to be received and made at a meeting without prior public notice of the subject of the report.

Current open meetings law requires a municipal governmental body to post notice of each meeting on a bulletin board at a place convenient to the public in the city hall. The bill includes an electronic bulletin board as an alternative location for posting the required notice.

**House Bill 2460**  
**Effective:** 6-17-11

**House Author:** Truitt  
**Senate Sponsor:** Wentworth

House Bill 2460 amends the Government Code to make the governing body of a public retirement system subject to the state's open records law in the same manner as a governmental body, with certain exceptions.

House Bill 2460 establishes that records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system are confidential and not subject to public disclosure but may be released to the following: a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for system benefits or to an authorized attorney, family member, or representative acting on behalf of such an individual; an administering firm, carrier, or agent or attorney acting on behalf of the retirement system; another governmental entity having a legitimate need for the information to perform the purposes of the retirement system; or a party in response to a subpoena issued under applicable law. A record released to such a person or entity remains confidential after such release.

House Bill 2460 authorizes the records to become part of the public record of an administrative or judicial proceeding related to a contested case and establishes that the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order. The bill grants the retirement system sole discretion in determining whether a record is subject to the state's open records laws and exempts the system, administering firm, carrier, or governmental agency from any requirement to accept or comply with an open records request or to seek an attorney general opinion on the matter.

**House Bill 2463**

**Effective:** 9-1-11

**House Author:** Reynolds

**Senate Sponsor:** Ellis

House Bill 2463 amends the Labor Code to specify that the following information is not considered public information for the purposes of the state's open records law and to prohibit it from being disclosed to a party to a complaint alleging an unlawful employment practice filed with the Texas Workforce Commission: identifying information of persons other than the parties and witnesses to the complaint; identifying information about confidential witnesses, including any confidential statement given by the witness; certain sensitive medical information about the charging party or a witness to the complaint that is provided by a person other than the person requesting the information and not relevant to issues raised in the complaint; identifying information about a person other than the charging party that is found in sensitive medical information regardless of whether the information is relevant to the complaint; certain nonsensitive medical information that is relevant to the complaint if the disclosure would result in an invasion of personal privacy; identifying information about other respondents or employers not a party to the complaint; certain information relating to settlement offers or conciliation agreements and information contained in a separate alternative dispute resolution file prepared for mediation purposes; and identifying information about a person on whose behalf a complaint was filed if the person has requested that the person's identity as a complaining party remain confidential.

**House Bill 2538**

**Effective:** 9-1-11

**House Author:** Vo

**Senate Sponsor:** Jackson

House Bill 2538 amends the Education Code to exempt certain identifying information regarding students of career schools or colleges and other entities regulated by the Texas Workforce Commission under Education Code provisions relating to career schools and colleges from the state's open records law. The bill makes it a Class A misdemeanor to solicit, disclose, receive, or use, or to authorize, permit, participate in, or acquiesce in another person's use of, student information, unless otherwise permitted by Labor Code provisions relating to employment records or by commission rule.

**House Bill 2947**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** Shapiro

House Bill 2947 amends the Government Code to except from required disclosure under the public information law an audit working paper of a hospital district.

**House Bill 2966**  
**Effective:** 6-17-11

**House Author:** Naishtat  
**Senate Sponsor:** Zaffirini

House Bill 2966 amends the Code of Criminal Procedure to make confidential and exempt from state open records law a communication or record that contains identifying information regarding a sexual assault victim who has not reported the assault to a law enforcement agency and who receives a forensic medical examination and that is created by, provided to, or in the control or possession of the Department of Public Safety.

**House Bill 2978**  
**Effective:** 9-1-11

**House Author:** Hunter  
**Senate Sponsor:** Hegar

Current open meetings law provides that the governing boards of a municipal hospital, a municipal hospital authority, a hospital district created under general or special law, and certain nonprofit health maintenance organizations are not required to conduct an open meeting to deliberate certain pricing or financial planning information or information relating to a proposed new service or product line before publicly announcing the service or product line. House Bill 2978 amends the Government Code to also exclude the governing boards of a county hospital and a county hospital authority from the requirement to conduct such an open meeting.

**House Bill 3307**  
**Effective:** 6-17-11

**House Author:** Munoz, Jr.  
**Senate Sponsor:** Hinojosa

House Bill 3307 amends the Tax Code to add a current or former United States attorney or assistant United States attorney and the spouse and child of the attorney to the list of individuals for whom information in property tax appraisal records is confidential and available only for the official use of certain state and local governmental entities if the records identify the individual's home address and the individual chooses to restrict public access to the information in the records.

**Senate Bill 470**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Anchia

Senate Bill 470 amends the Government Code to make permanent the exception of certain information in the custody of a hospital district that could compromise the safety of an officer or employee of the district from required disclosure under state open records law.

**Senate Bill 602**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Marquez

Senate Bill 602 amends the Government Code to clarify that public information is not excepted from required disclosure under state open records law unless the information is made confidential under law. The bill establishes that a modified request for public information is considered a separate request if the modified request is made in response to a deposit or bond requirement. If a written request for public information is sent by U.S. mail and the date of actual receipt by the governmental body cannot be established adequately, the bill establishes a presumption that a request is considered received on the third business day after the postmark date.



A governmental body is authorized, without the necessity of requesting a decision from the attorney general, to redact information relating to a motor vehicle operator's or driver's license or permit issued by a state agency or a personal identification document issued by a state or local agency and to redact information relating to a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body from any information the governmental body discloses under state open records law. The bill entitles the requestor of such information to seek a decision from the attorney general, requires the attorney general by rule to establish procedures and deadlines for making a decision about the matter and to promptly render and issue a written decision, and authorizes an appeal of the decision to a Travis County district court.

Senate Bill 602 amends the Education Code to provide that the personal information of an individual that is maintained in an institution of higher education's emergency notification system is confidential and not subject to disclosure under state open records law.

**Senate Bill 1327**  
**Effective:** 5-28-11

**Senate Author:** Watson  
**House Sponsor:** Howard, Donna

Senate Bill 1327 amends the Education Code to exempt from disclosure under state public information law information collected or produced by a systemwide compliance office for the purpose of reviewing compliance processes at a component institution of higher education of a university system. The bill includes as information exempt from such disclosure information collected in a compliance program investigation that would interfere with an ongoing compliance investigation if released. The bill authorizes confidential or exempt compliance program information to be made available, on request in compliance with applicable law and procedure, to a governmental agency responsible for investigating the matter that is the subject of a compliance report and to an officer or employee of an institution of higher education or a compliance officer or employee of a university system administration who is responsible under institutional or system policy for a compliance program investigation or for reviewing a compliance program investigation.

**Senate Bill 1613**  
**Effective:** 6-17-11

**Senate Author:** Ogden  
**House Sponsor:** Brown

Senate Bill 1613 amends the Government Code to revise the definition of "competitive matter" in provisions relating to an exception to public information law for public power utility competitive matters and to apply that revised definition to provisions relating to the same exception in public meetings law. The bill removes language in the public meetings and public information law provisions described above relating to the public utility governing body and its determination that a matter is a competitive matter.

**Senate Bill 1638**  
**Effective:** 6-17-11

**Senate Author:** Davis  
**House Sponsor:** Geren

State open records law excepts certain personal information relating to governmental officials and employees and specified individuals with law enforcement duties from required disclosure. It also excepts a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, and a personal identification document issued by the State of Texas from required disclosure. Senate Bill 1638 amends the Government Code to add emergency contact information to the personal information that is excepted from disclosure and to add a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, and a personal identification document issued by an agency of another state or country to the documents that are excepted

from disclosure. The bill also makes confidential a photocopy or other copy of an identification badge issued to an official or employee of a governmental body.

**Senate Bill 1907**

**Effective:** 9-1-11

**Senate Author:** Wentworth

**House Sponsor:** Geren

Senate Bill 1907 amends the Government Code to establish that certain information that is not confidential but is excepted from required disclosure is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body. The bill amends the Local Government Code to include birth records among the records maintained by a local registrar that are open to public inspection 75 years after they were originally created or received. Current law provides that physician-patient confidentiality continues to apply to a confidential communication or record relating to a patient regardless of when the patient receives the services of a physician, except for medical records that are requested for purposes of historical research. Senate Bill 1907 amends the Occupations Code to make that exception applicable to records that are at least 75 years old.

**The summaries for the following bills are in the listed chapters:**

House Bill 2971 - Public Education

Senate Bill 1130 - Taxes and Tax Administration



## Parks and Wildlife

This chapter covers legislation on issues relating to parks and wildlife generally, including wildlife management, boating and water safety, hunting and fishing, and public recreation, as well as legislation relating to the administration of the Texas Parks and Wildlife Department. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 787**

**Effective:** 9-1-11

**House Author:** Kuempel

**Senate Sponsor:** Wentworth

House Bill 787 amends the Parks and Wildlife Code to establish the conditions under which the Parks and Wildlife Department may cancel the certificate of title for an abandoned vessel or outboard motor found on a person's property and issue a new certificate. The bill requires a person applying for a new certificate to file a bond with the department and sets out a process for issuing the certificate once the bond expires and is returned to the person. The bill makes these provisions inapplicable to a vessel or outboard motor that is subject to certain contracts or liens under the Property Code.

House Bill 787 amends the Transportation Code to authorize a law enforcement agency to take an abandoned aircraft into custody and requires the agency to take certain steps to attempt to identify the owner of the aircraft before sending the required notice of abandonment to the last known registered owner of the aircraft and each recorded lienholder. The bill provides for the recovery of storage fees by a law enforcement agency and for the sale of abandoned aircraft by auction. The bill also includes aircraft and watercraft without a required identification number among the junked vehicles to which the law relating to abatement of a public nuisance applies.

#### **House Bill 1300**

**Effective:** 5-28-11

**House Author:** Guillen et al.

**Senate Sponsor:** Eltife

House Bill 1300 amends the Parks and Wildlife Code to authorize the Parks and Wildlife Department (TPWD), subject to approval by the Parks and Wildlife Commission, to select a for-profit entity as an official corporate partner. TPWD may contract with one or more such partners to raise funds for state site operations and maintenance or other priority projects or programs or to conduct joint promotional campaigns or other fund-raising efforts for those purposes. The bill authorizes an official corporate partner to accept gifts and grants on behalf of TPWD or provide such items to the department as a means to raise funds and limits the use of those funds to the purposes specified. The bill requires the commission to adopt rules to implement the bill's provisions relating to for-profit partnerships and specifies that those provisions do not limit the department's authority to accept donations that are otherwise authorized.

House Bill 1300 authorizes TPWD to contract with any entity the department considers appropriate to sell state park passes in any of the entity's retail locations or to use the TPWD brand in exchange for licensing fees paid by the entity to the department. The bill requires the commission by rule to prohibit inappropriate commercial advertising in any sites under the department's jurisdiction to preserve the integrity of the sites and minimize distractions that may interfere with enjoyment of the sites by visitors.

**House Bill 1301**  
**Effective:** 6-17-11

**House Author:** Guillen et al.  
**Senate Sponsor:** Eltife

House Bill 1301 amends the Transportation Code to authorize a person to contribute \$5 or more to the Parks and Wildlife Department (TPWD) when the person registers or renews the registration of a motor vehicle. The bill establishes the means by which the Texas Department of Transportation is required to allow a person to make such a contribution in the course of the registration or renewal process and provides for the disposition of those contributions, which may be used only for the operation and maintenance of state parks, historic sites, or natural areas under the jurisdiction of TPWD.

**House Bill 1450**  
**Effective:** 5-28-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 1450 requires the Parks and Wildlife Department to conduct a study and issue a report regarding potential tort liability arising from the operation of a department-owned motor vehicle by a person in the course and scope of performing volunteer services for the department. The bill specifies the parties with which the department must consult for the study and requires the report to contain certain information regarding tort liability protection for such persons operating a department-owned motor vehicle, including alternatives to providing that protection.

**House Bill 1788**  
**Effective:** 9-1-11

**House Author:** Farias et al.  
**Senate Sponsor:** Uresti

House Bill 1788 amends the Parks and Wildlife Code to authorize a person, under certain conditions and with specified exemptions, to capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road or on the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued to the person by the Parks and Wildlife Department and does not use a trap. The bill provides for the stamp's fee and term of issuance, places restrictions on its use, and provides for the dedication of revenue derived from its sale. It makes it a Class C Parks and Wildlife Code misdemeanor offense to violate the reptile and amphibian stamp requirement.

**Senate Bill 387**  
**Effective:** 6-17-11

**Senate Author:** Williams  
**House Sponsor:** Eiland

Senate Bill 387 amends the Parks and Wildlife Code to exempt 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.

**Senate Bill 810**  
**Effective:** 6-17-11

**Senate Author:** Hinojosa  
**House Sponsor:** Hunter

Senate Bill 810 amends provisions of the Parks and Wildlife Code that create the Ingleside Cove Wildlife Sanctuary in San Patricio and Nueces Counties to change the description of the boundaries of the sanctuary.

**Senate Bill 932**  
**Effective:** 9-1-11

**Senate Author:** Williams  
**House Sponsor:** Eiland

Senate Bill 932 amends provisions of the Parks and Wildlife Code authorizing the Parks and Wildlife Commission to establish and conduct a program for the recovery and replacement of oyster shell in the coastal waters of Texas to maintain or enhance public oyster reefs. The bill specifies that the program's authority includes the recovery of other suitable cultch material and authorizes the Parks and Wildlife Department (TPWD) to accept grants and donations of money

or materials from private or public sources to be applied to the program. The bill provides for the creation of the oyster shell recovery and replacement program account and the deposit of funds to the account and limits the appropriation of money in the account to the recovery and enhancement of public oyster reefs. The bill provides for the collection of a fee by TPWD from each licensed commercial oyster fisherman for each box of oysters harvested by the fisherman from the water of Texas, requires the commission by rule to adopt policies and procedures for the issuance of oyster shell recovery tags or other means to collect the fee, and establishes requirements for the use of such tags and the information contained on the tags. TPWD is required to consult with members of the oyster industry regarding the management of oyster beds in the state.

Senate Bill 932 also changes requirements relating to the closing of an area to the taking of oysters under certain conditions. The bill transfers the responsibility for posting notice of such closings from the commissioner of health to the Parks and Wildlife Commission, authorizes the commission by rule to establish procedures and criteria for closing such areas, authorizes the commission to delegate the duties and responsibilities for the closings to the executive director of TPWD, and sets out requirements relating to the reopening of closed areas.

**Senate Bill 1480**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Darby

Previous law required the Parks and Wildlife Department (TPWD) to publish a list of exotic aquatic plants approved for import into or possession in Texas without a permit. Senate Bill 1480 amends the Parks and Wildlife Code to repeal that law and related provisions, requires the Parks and Wildlife Commission by rule to adopt a list of exotic aquatic plants that are prohibited from being imported into or possessed in Texas without a permit, and provides for the transition from the list of approved plants to the list of prohibited plants. The bill prohibits a person from importing, possessing, selling, or placing into the public water of Texas an exotic harmful or potentially harmful aquatic plant except as authorized by commission rule or by a permit issued by TPWD. It requires the commission to adopt rules to implement the bill's provisions and authorizes the commission to enact an emergency rule to add an exotic aquatic plant to the list of prohibited plants if the plant is determined to be harmful or potentially harmful.

Senate Bill 1480 requires TPWD to consult with the Department of Agriculture as necessary to administer the bill's provisions relating to the regulation of exotic harmful or potentially harmful aquatic plants and exempts certain microalgae from such regulation. The bill establishes penalties for an offense relating to exotic harmful or potentially harmful aquatic plants and reduces the penalties for an offense relating to exotic harmful or potentially harmful fish and shellfish.

## **Boating and Water Safety**

**House Bill 308**  
**Effective:** 6-17-11

**House Author:** Menendez  
**Senate Sponsor:** Watson

House Bill 308 amends the Parks and Wildlife Code to provide requirements for the types of personal flotation devices that must be carried or used on certain recreational water vessels. The bill includes provisions relating to the required use of a personal flotation device by a person under 13 years of age on board certain types of vessels while the vessel is under way.



## Parks and Wildlife

**House Bill 384**  
**Effective:** 6-17-11

**House Author:** Menendez  
**Senate Sponsor:** Wentworth

House Bill 384 amends the Parks and Wildlife Code to prohibit a person from displaying on certain watercraft a registration decal that is altered, fraudulent, or issued under a certificate of number assigned to another watercraft. The bill makes it a Class A Parks and Wildlife Code misdemeanor offense to intentionally sell, offer to sell, or purchase a watercraft with a hull identification number, or an outboard motor with a serial number, that has been altered, defaced, mutilated, or removed.

**House Bill 555**  
**Effective:** 9-1-11

**House Author:** Howard, Donna  
**Senate Sponsor:** Watson

House Bill 555 amends the Parks and Wildlife Code to require the operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of a specified amount to report, rather than file, a full description of the incident to the Parks and Wildlife Department (TPWD) in accordance with regulations established by the department. The bill increases the minimum amount of damage to property that requires such a report from \$500 to an amount set by the Parks and Wildlife Commission of not less than \$2,000.

House Bill 555 changes the deadline for a marine safety enforcement officer to report to TPWD any incident the officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated from the 15th day after the date the incident occurred to the 15th day after the date the officer initially became aware of the incident.

**House Bill 596**  
**Effective:** 6-17-11

**House Author:** Parker  
**Senate Sponsor:** Harris

House Bill 596 amends the Parks and Wildlife Code to include a personal watercraft among the vessels around which a person is prohibited from operating a motorboat in a circular course if any occupant of the vessel is engaged in certain water activities and includes waterskiing or a similar activity in those activities. The bill exempts from the prohibition a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or other person engaged in a similar activity.

**House Bill 673**  
**Effective:** 6-17-11

**House Author:** Parker  
**Senate Sponsor:** Harris

House Bill 673 amends the Parks and Wildlife Code to require the Parks and Wildlife Department to produce a video on recreational water safety suitable for use with high school students that includes instruction on safe participation in recreational activities in, on, or around the lakes, rivers, and coastal waters of Texas. The bill requires the video to be produced as soon as the department's operating budget makes funds available for that purpose, requires the department to notify the Texas Education Agency in writing when the video is available for the agency's use, and authorizes the department to edit the video's content so the video meets certain federal standards.

House Bill 673 amends the Education Code to require the Texas Education Agency by rule to incorporate a curriculum module on recreational water safety into driver education instruction using the recreational water safety video on notification that the video is available.

**House Bill 1395**  
**Effective:** 6-17-11

**House Author:** Parker  
**Senate Sponsor:** Watson et al.

House Bill 1395 amends the Parks and Wildlife Code to decrease from 16 years of age to 13 years of age the minimum age required for a person to operate a personal watercraft or to operate a motorboat powered by certain types of motors on the public waters of Texas and changes the conditions for an exception to the age requirement. The bill amends provisions relating to the applicability of the requirement that a person take a boater education course in order to operate certain vessels on the state's public waters and provisions relating to the grounds for a court's dismissal of a charge of the offense of failing to possess required documents relating to that requirement. The bill changes the conditions under which a person is exempt from the boater education course requirement and requires the Parks and Wildlife Commission by rule to establish a boater education deferral program, which must be available at no cost to boat dealers, manufacturers, and distributors.

**House Bill 2138**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

Previous law authorized game wardens commissioned by the Parks and Wildlife Commission to assist in the search for and rescue of victims of water-oriented accidents. House Bill 2138 amends the Parks and Wildlife Code to specify that state military forces are authorized to assist game wardens in such operations.

**House Bill 2141**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Williams

House Bill 2141 amends the Parks and Wildlife Code to establish that game wardens commissioned by the Parks and Wildlife Commission are the primary enforcement officers responsible for enforcing state laws relating to water safety.

**House Bill 3722**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 3722 amends a provision of the Parks and Wildlife Code authorizing an agent appointed by the Parks and Wildlife Department to keep a \$3 service fee for administering a boater education course or a course equivalency examination. The bill provides as an alternative to that fee a service fee in an amount set by the Parks and Wildlife Commission and authorizes the agent to collect and keep whichever fee is greater.

## Hunting and Fishing

**House Bill 550**  
**Effective:** 6-17-11

**House Author:** Dutton  
**Senate Sponsor:** Jackson

House Bill 550 amends the Parks and Wildlife Code to exempt from the requirement for a general fishing license a Texas resident whose birth date is before January 1, 1931, rather than September 1, 1930, as provided under previous law.

**House Bill 716**  
**Effective:** 9-1-11

**House Author:** Miller, Sid et al.  
**Senate Sponsor:** Fraser et al.

House Bill 716 amends the Parks and Wildlife Code to authorize a qualified landowner or landowner's agent, as determined by the Parks and Wildlife Commission by rule, to contract to

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participate as a hunter or observer in using a helicopter to take depredating feral hogs or coyotes under the authority of a permit to manage wildlife and exotic animals from aircraft.

**House Bill 790**  
**Effective:** 6-17-11

**House Author:** Kuempel  
**Senate Sponsor:** Hegar

House Bill 790 repeals a provision of the Parks and Wildlife Code that established that statutory provisions relating to freshwater fishing stamps expire on September 1, 2014.

**House Bill 1322**  
**Effective:** 5-21-11

**House Author:** Scott  
**Senate Sponsor:** Lucio

House Bill 1322 amends the Parks and Wildlife Code to prohibit a person in a vessel on tidal water from possessing fish taken for sporting purposes unless the person holds a general fishing license issued under state law, except as specified in provisions relating to the annual free sportfishing day in Texas and exemptions to general fishing license requirements.

**House Bill 1346**  
**Effective:** 5-19-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 1346 amends the Parks and Wildlife Code to replace references to a game management officer with references to a game warden in provisions relating to special hunting and fishing licenses and permits, oyster licenses and public and private oyster beds, and restrictions on the use of certain firearms at Caddo Lake in Harrison County and Murvaul Lake in Panola County.

**House Bill 1806**  
**Effective:** 5-21-11

**House Author:** Flynn  
**Senate Sponsor:** Hegar

House Bill 1806 amends the Parks and Wildlife Code to expand the applicability of a provision relating to fraud in freshwater fishing tournaments to include saltwater fishing tournaments. The bill makes it an offense if, with the intent to affect the outcome of a fishing tournament, a 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 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 the Parks and Wildlife Commission.

**House Bill 2189**  
**Effective:** 6-17-11

**House Author:** Elkins  
**Senate Sponsor:** Deuell

House Bill 2189 amends the Parks and Wildlife Code to authorize a person holding the required fishing license and freshwater fishing stamp issued to the person by the Parks and Wildlife Department to engage in handfishing in the public fresh water of Texas. The bill authorizes the Parks and Wildlife Commission to adopt rules relating to handfishing, which is defined to mean fishing for catfish by the use of hands only and without any other fishing device such as a gaff, pole hook, trap, or spear.

**House Bill 3808**  
**Effective:** 6-17-11

**House Author:** King, Tracy O.  
**Senate Sponsor:** Uresti

House Bill 3808 amends the Parks and Wildlife Code to prohibit an individual engaging in fishing in certain counties using archery equipment, as defined by the bill, from possessing while fishing an arrow equipped with fletching of any kind, an unbarbed arrow, or a bow that is not equipped with a reel and line. Such an individual is exempt from the prohibition against

discharging a firearm or shooting an arrow from any kind of bow under certain conditions, including in specified proximity of a navigable river or stream in those counties.

**Senate Bill 460**

**Effective:** 6-17-11

**Senate Author:** Seliger et al.

**House Sponsor:** Hunter

Senate Bill 460 amends the Parks and Wildlife Code to authorize the Parks and Wildlife Department to issue a permit for the management of the wild mule deer population. The bill establishes conditions for holding such a permit and for receiving compensation for granting a person permission to kill a wild deer on the acreage covered by the permit during a special season with a special bag limit established by the Parks and Wildlife Commission. The bill provides for the duration of the permit and the fees for original and renewal permits. It requires the permit holder to submit annually a deer management plan for approval or disapproval of the department and to meet certain recordkeeping requirements. Department employees are authorized to inspect the required records and the acreage for which the permit is issued to determine the permit holder's compliance with the management plan. The bill provides for the application of general state laws and regulations relating to mule deer to deer on the acreage covered by the permit and establishes penalties ranging from a Class C Parks and Wildlife Code misdemeanor to a Class A Parks and Wildlife Code misdemeanor for violations relating to the permit.

**Senate Bill 498**

**Effective:** 9-1-11

**Senate Author:** Jackson

**House Sponsor:** Phillips

Senate Bill 498 amends the Parks and Wildlife Code to include a qualified individual as a party to whom the Parks and Wildlife Department (TPWD) may issue a permit authorizing the trapping and transporting of surplus white-tailed deer and to specify that the permit issued to a qualified individual applies to surplus white-tailed deer found on the property owned by the qualified individual. The bill defines "qualified individual" as an individual who has a wildlife management plan approved by TPWD and expands the applicability of state laws relating to such a permit to include a qualified individual. The bill requires the Parks and Wildlife Commission to adopt rules for determining the circumstances under which a qualified individual, political subdivision, or property owners' association may obtain a permit issued by TPWD authorizing the trapping and transporting of surplus white-tailed deer.

**The summaries for the following bills are in the listed chapters:**

House Bill 46 - Public Officials and Employees

House Bill 1080 - Military Forces and Veterans

Senate Bill 803 - Economic Development

Senate Joint Resolution 28 - Special Districts



## Probate and Guardianship

This chapter covers legislation on probate and guardianship proceedings and appointments, transfers of certain property, and the management and administration of a guardianship or a trust. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### **House Bill 2492**

**Effective:** See below

**House Author:** Naishtat

**Senate Sponsor:** Uresti

House Bill 2492 amends the Texas Probate Code to entitle an adult incapacitated child of a decedent to receive a family allowance and updates related provisions to reflect this addition. The bill also revises provisions relating to the treatment of exempt property and an allowance in lieu of exempt property in the administration of a decedent's estate to reflect this change. The bill makes these provisions effective September 1, 2011.

The bill amends the Estates Code, as enacted by Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, effective January 1, 2014, to incorporate in that code the bill's provisions amending the Texas Probate Code. The bill makes these provisions effective January 1, 2014.

### **House Bill 2759**

**Effective:** 1-1-14

**House Author:** Hartnett

**Senate Sponsor:** Duncan

House Bill 2759, a continuation of the legislature's ongoing statutory revision program, amends the Estates Code, adopted in the 81st Legislative Session, 2009, but not yet effective, by revising, transferring, and redesignating certain probate laws. The bill includes in the Estates Code a nonsubstantive revision of provisions applicable to durable powers of attorney, guardianships, guardianship-related proceedings, and alternatives to guardianships, as well as redesignated, but not revised, provisions relating to scope, jurisdiction, and venue for guardianship proceedings and a provision relating to payment for certain professional services in guardianship proceedings. References and cross-references are updated and laws that are revised in the new code or that have no continuing effect are repealed. The bill provides that it is a recodification only and that no substantive change is intended.

### **Senate Bill 220**

**Effective:** 9-1-11

**Senate Author:** Nelson

**House Sponsor:** Naishtat

Senate Bill 220 amends the Human Resources Code to require the Health and Human Services Commission (HHSC), in computing the applied income of a Medicaid recipient, to deduct an additional personal needs allowance from the earned and unearned income of the recipient and, if applicable, the recipient's spouse, for purposes of determining guardianship expenses for the recipient. The bill sets out procedures for when such a deduction becomes effective, the method for computing the applied income of a recipient, and procedures for submitting a court order to receive a deduction. The bill includes provisions relating to access by the Department of Aging and Disability Services (DADS) to records and documents necessary to perform as guardian, and the release of confidential information in the record of an individual who is assessed by DADS or is a former ward of DADS. The bill requires DADS to encourage the involvement of volunteers in guardianships for which DADS serves as guardian of the person or estate and sets out the types of services a volunteer is authorized to provide.

Senate Bill 220 amends the Texas Probate Code to require a citation stating that a request for guardianship has been filed to contain a statement informing interested persons of the right to be notified of certain actions relating to the guardianship and specifies the relatives of the proposed ward to which a copy of the application for guardianship and notice of information contained in



the citation is required to be mailed. The bill includes provisions relating to the right of a ward or proposed ward to retain an attorney, establishes the earliest date a deduction for compensation and costs or services may be ordered by a court, specifies the relatives required to be named in an application for guardianship for certain proposed wards, specifies the conduct that may serve as the basis for removal of an appointed guardian, provides for the appointment of a guardian ad litem and an attorney ad litem in a proceeding to remove an appointed guardian based on certain conduct, and sets out the rights and powers of a successor guardian and procedures for the appointment of an interested person in place of a successor guardian. The bill amends a Government Code guardianship certification requirement provision as it relates to certain volunteer services.

**Senate Bill 481**  
**Effective:** 9-1-11

**Senate Author:** Harris  
**House Sponsor:** Jackson

Current law allows a court with probate jurisdiction, under certain circumstances, to remove a guardian of an incapacitated person without providing notice to the guardian. Senate Bill 481 amends the Texas Probate Code to require a court clerk to issue notice of a court order removing a guardian unless the removal is based on the fact that the guardian cannot be served with notice or other process. The notice must state the names of the ward and the removed guardian; state the date the court signed the order of removal; contain a statement advising a guardian who was removed for misapplication, embezzlement, or removal of property committed to the guardian's care or for neglect or cruel treatment of a ward of the guardian's right to contest the removal and of the procedures for doing so; contain a copy of the removal order; and be personally served on the removed guardian not later than the seventh day after the date the court signed the order. The bill extends the deadline for filing an application with the court for a hearing to determine whether a guardian removed for the reasons listed above should be reinstated from not later than the 10th day after the date the court signs the order of removal to not later than the 30th day after the signing of the order and 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.

**Senate Bill 543**  
**Effective:** See below

**Senate Author:** Hegar  
**House Sponsor:** Taylor, Larry

Senate Bill 543 amends the Texas Probate Code to exempt from certain fees related to a decedent's estate certain law enforcement officers, firefighters, and others killed in the line of duty. This provision is effective September 1, 2011, and is repealed effective January 1, 2014.

The bill amends the Estates Code, as enacted by Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, effective January 1, 2014, to incorporate in that code the bill's provision amending the Texas Probate Code. The bill makes this provision effective January 1, 2014.

**Senate Bill 1196**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez  
**House Sponsor:** Hartnett

Senate Bill 1196 amends provisions of the Texas Probate Code and the Government Code relating to guardianship matters. Among other provisions, the bill revises probate law to reflect the redefining of "guardianship proceeding" to include the appointment of a guardian of a minor or other incapacitated person, including an incapacitated adult for whom another court obtained continuing, exclusive jurisdiction in a suit affecting the parent-child relationship when the person was a child; an application, petition, or motion regarding guardianship, an alternative to guardianship, or a management trust; and a mental health action. The bill also sets out provisions

relating to the jurisdiction of various courts in original and contested guardianship proceedings that depend on the structure of a county court system and revises provisions governing trial and hearing matters in a guardianship proceeding. The bill authorizes a person who has only a physical disability to apply for the creation of a management trust. The bill, in addition to updating other provisions relating to management trusts, updates provisions relating to the transfer of management trust property to a pooled trust and the amendment, modification, or revocation and the termination of a management trust.

**Senate Bill 1197**

**Effective:** 9-1-11

**Senate Author:** Rodriguez

**House Sponsor:** Hartnett

Current law authorizes a person who is authorized to disclaim an interest in a trust created in any manner other than a will to disclaim an interest in whole or in part by delivering a memorandum to a certain person and meeting other conditions. Senate Bill 1197 amends the Property Code to make such a memorandum effective to disclaim an interest in a trust in a case of an interest created by reason of the death of a decedent who died after December 31, 2009, and before December 17, 2010, and to which provisions of the Probate Code relating to the means of evidencing a disclaimer or renunciation of property or interest from a decedent do not apply. This provision expires on September 1, 2013. Current law requires a trustee to provide a notice of division or combination of a trust to beneficiaries. The bill adds provisions requiring the notice to be given to a guardian of the estate, guardian ad litem, or parent of a minor or incapacitated beneficiary and authorizing beneficiaries to waive the notice requirement. The bill revises provisions relating to certain trust procedures, including jurisdiction and venue of a relevant proceeding and the parties to a proceeding, and relating to provisions of the Uniform Principal and Income Act regarding a trustee's power to adjust between principal and income and certain taxes required to be paid by a trustee.

**Senate Bill 1198**

**Effective:** See below

**Senate Author:** Rodriguez

**Senate Sponsor:** Hartnett

Senate Bill 1198 amends the Texas Probate Code, effective September 1, 2011, to make substantive and nonsubstantive changes to provisions applicable to decedents' estates, including provisions relating to administration, jurisdiction, and venue. Provisions relating to an extension of time for certain disclaimers with respect to an interest in property passing by reason of the death of a decedent during a specified period are effective June 17, 2011. The bill also amends the Estates Code, effective January 1, 2014, to incorporate in that code the bill's substantive and nonsubstantive provisions amending the Texas Probate Code and to add provisions to the Estates Code that are not in the Texas Probate Code. The Estates Code was enacted by Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, effective January 1, 2014, as part of the state's ongoing statutory revision program and will replace the Texas Probate Code.

**The summaries for the following bills are in the listed chapters:**

Senate Bill 587 - Courts

Senate Bill 1810 - Property Interests and Housing



## Property Interests and Housing

This chapter covers legislation on issues relating to property interests, including affordable housing, eminent domain, the landlord-tenant relationship, liens, and property owners' associations. Legislation relating to property taxation is in the **Taxes and Tax Administration** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 257**

**Effective:** See below

**House Author:** Hilderbran et al.

**Senate Sponsor:** Patrick

House Bill 257 amends the Property Code to establish an 18-month period of inactivity, or dormancy, relating to a utility deposit after which the deposit is presumed abandoned. The bill reduces from seven years to three years the dormancy period for a money order to be presumed abandoned and increases the cap on the amount of service, maintenance, or other charges that the holder of an uncashed money order may impose before a presumption of abandonment from 50 cents per month to \$1 per month for each month the money order remains uncashed before the month the money order is presumed abandoned.

The bill establishes that a checking or savings account or a matured certificate of deposit held by a financial institution is presumed abandoned if the account has been inactive for at least three years after the date of the depositor's last transaction or correspondence concerning the account.

Previous law required a person holding presumably abandoned property on June 30 to file a report on or before the following November 1 and, for property valued at more than \$250, to mail to the known owner's last known address on or before the following August 1 written notice regarding the holding and the potential requirement for the holder to deliver the property to the comptroller of public accounts by the November 1 deadline if the property remained unclaimed. The bill changes the holding date from June 30 to March 1, the deadline for mailing the required notice to the known owner's last known address from August 1 to May 1, and the deadline for filing the required report and, if applicable, for delivery of the property to the comptroller from November 1 to July 1.

The bill authorizes the comptroller, on receipt of securities received as unclaimed property, to sell such securities and use the proceeds to buy, exchange, or invest in marketable securities.

The bill makes its provisions changing the holding date and the filing and notice deadlines effective January 1, 2013, and makes the remainder effective September 1, 2011.

#### **House Bill 1371**

**Effective:** 9-1-11

**House Author:** Gonzalez

**Senate Sponsor:** Rodriguez

House Bill 1371 amends the Property Code to authorize a municipal housing authority in a municipality having a population of more than 500,000 and located not more than 50 miles from an international border to require that a vehicle parked in a community of the authority be registered with the authority.

#### **House Bill 1818**

**Effective:** 9-1-11

**House Author:** Harper-Brown

**Senate Sponsor:** Hinojosa

House Bill 1818 amends the Government Code to continue the Texas State Affordable Housing Corporation until September 1, 2023, and amends various standard across-the-board sunset provisions regarding the corporation's board of directors membership qualifications and training requirements and conflict-of-interest policies. The bill establishes provisions relating to

## Property Interests and Housing

board meetings and to contracting with historically underutilized businesses for all services that may be required by the corporation and revises the corporation's duties in recording complaints filed with the corporation and the information regarding complaints required to be maintained by the corporation. The bill expands the information required to be included in the corporation's annual report on its financial activity submitted to certain public entities and officials and establishes requirements for a compliance contract or agreement between the corporation and a housing sponsor that receives bond financing by or through the corporation for the purpose of providing affordable multifamily housing.

House Bill 1818 amends the Local Government Code to exempt a municipal housing authority in which the total number of units is 150 or fewer from provisions requiring the appointment of a tenant as a commissioner of the authority and prohibiting commissioners from serving more than two consecutive two-year terms.

**House Bill 2608**  
**Effective:** Vetoed

**House Author:** Harper-Brown  
**Senate Sponsor:** Hinojosa

House Bill 2608 amends the Government Code and the Occupations Code to continue the Texas Department of Housing and Community Affairs (TDHCA) until September 1, 2023, and make changes to provisions relating to the TDHCA's functions.

House Bill 2608 requires the TDHCA to develop a long-term disaster recovery plan to administer money received for disaster recovery from the federal government or any other source. The bill requires the TDHCA to make changes to the administration of the penalty appeals hearing process and transfers penalty appeals hearings to the State Office of Administrative Hearings. The bill requires additional reporting requirements, administrative changes, and changes to the housing tax credit program and authorizes the TDHCA to create a separate application procedure for federal emergency funds.

House Bill 2608 requires the TDHCA to make changes to the manufactured housing installation inspection program and manufactured housing license requirements. The bill requires the Manufactured Housing Division to develop and implement a policy to encourage the use of negotiated rulemaking procedures and requires the division's procedures relating to alternative dispute resolution to conform to model guidelines issued by the State Office of Administrative Hearings.

House Bill 2608 increases from 25 to 75 the percentage of manufactured homes on a sample basis that the TDHCA is required to inspect for compliance with applicable standards, rules, and orders. The bill requires the TDHCA to establish a third-party installation inspection program if the department is not able to inspect the requisite percentage of manufactured homes. The bill sets out provisions relating to payment to a consumer who sustains damages resulting from certain entities' violation of statutory provisions relating to manufactured housing.

Reason Given for Veto: "House Bill 2608 is the sunset bill for the Texas Department of Housing and Community Affairs (TDHCA). This bill would adopt the majority of the changes recommended by the Sunset Commission, most of which are technical clarifications on administrative procedures. The bill would continue the operations of the agency until 2023.

"However, overly prescriptive language was added to House Bill 2608 that would impose a new layer of bureaucracy that makes unrealistic demands of the state, delay assistance to communities hit by disasters and duplicate disaster planning conducted by the Texas Division of Emergency Management. While this language may have been well-intentioned, in many instances it would require the state to issue plans for expenditure of federal disaster recovery funds before federal agencies have announced the rules governing the expenditure of those funds.

"I do not take lightly the impact this veto may have in potentially shutting down TDHCA over the next year. That is why I have asked the legislature during this special session to amend language in pending legislation to continue the operation of TDHCA."

**Senate Bill 402**  
**Effective:** 1-1-12

**Senate Author:** West  
**House Sponsor:** Oliveira

Senate Bill 402 amends the Local Government Code to authorize a governing body of a municipality or county to create or designate one or more community land trusts to operate in the municipality or county. The purpose of such a trust is to provide affordable housing for low-income and moderate-income residents in the community, promote resident ownership of housing, keep housing affordable for future residents, and capture the value of public investment for long-term community benefit. The bill requires a trust to be a nonprofit organization and satisfy certain requirements. The bill authorizes a trust to retain title to land it acquires and sell or lease the land in certain ways. The bill establishes the qualifications that a person must meet in order to purchase or lease property from a trust.

Senate Bill 402 amends the Tax Code to establish a tax exemption for real and personal property owned by a community land trust if the trust meets certain requirements. The bill requires a tax appraiser to consider the reduction in value of property owned, leased, or sold by a trust that has restrictions on the manner of disposition of the property.

**Senate Bill 992**  
**Effective:** 9-1-11

**Senate Author:** Lucio  
**House Sponsor:** Lucio III

Previous law required two-thirds of the dollar amount of loans made in each fiscal year under the owner-builder loan program established by the Texas Department of Housing and Community Affairs to be made to borrowers whose property is located in counties eligible to receive financial assistance for water supply and sewer service projects in distressed areas. Senate Bill 992 amends the Government Code to change the property requirement to a property that 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.

**Senate Bill 1810**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Truitt

Senate Bill 1810 amends the Property Code to make clarifying changes to provisions exempting a person's right to the assets held in or to receive payments under certain savings plans from attachment, execution, and seizure for the satisfaction of debts. With regard to the protection of an inherited individual retirement account against access by creditors, the bill establishes that a person's interest in a plan, annuity, account, or contract acquired by reason of another person's death, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt from such attachment, execution, or seizure for the satisfaction of debt to the same extent that the interest of the person from whom the plan, annuity, account, or contract was acquired was exempt on the date of the person's death.

## **Eminent Domain and Real Property Transactions**

**House Bill 8**  
**Effective:** 6-17-11

**House Author:** Darby et al.  
**Senate Sponsor:** Harris

House Bill 8 amends the Property Code to establish that a private transfer fee obligation is not binding or enforceable against a subsequent owner or subsequent purchaser of an interest in real property and is void. The bill establishes that for purposes of the bill's provisions, specified types of payments are not considered private transfer fee obligations and places restrictions on the type of community that may benefit from, and the type of organization that may provide a



benefit under, certain of those types of payments. The bill provides requirements for notification regarding the continuation of existing private transfer fee obligations, the timely acceptance of fees paid under such obligations, and the disclosure of an existing transfer fee obligation to a potential purchaser of real property that may be subject to such an obligation. The bill establishes that a provision that purports to waive a purchaser's rights under the bill's provisions is void.

House Bill 8 authorizes the attorney general to institute an action for injunctive or declaratory relief to restrain a violation of the bill's provisions and for civil penalties against a payee for a violation of statutory provisions relating to conveyances in general and sets out provisions relating to the assessment of such a penalty. The bill repeals a provision relating to a prohibition against a fee in certain deed restrictions or covenants for future conveyance of residential real property and a related lien.

**House Bill 364**  
**Effective:** 9-1-11

**House Author:** Turner  
**Senate Sponsor:** Ellis

House Bill 364 amends the Property Code to require a unit owner of a condominium located in a municipality with a population of more than 1.9 million to provide written notice of the owner's new mailing address to the appraisal district in which the condominium is located not later than the 90th day after a change of address.

The bill amends the Local Government Code to add temporary provisions, expiring December 31, 2016, to authorize a municipality with a population of more than 1.9 million to take a condominium through the use of eminent domain for the purpose of the elimination of urban blight if a tract or unit of real property on which the condominium sits presents certain conditions for at least one year after the date on which notice of the conditions is reasonably attempted to be provided to the property owner.

**House Bill 3389**  
**Effective:** 9-1-11

**House Author:** Workman  
**Senate Sponsor:** Watson

House Bill 3389 amends the Property Code to require the form for the disclosure notice that the seller of residential real property consisting of a single dwelling unit must provide to the buyer to include on the checklist of items that come with the property separate listings that allow the seller to distinguish whether the property is fueled by natural gas lines or liquid propane gas and, if the property is fueled by liquid propane gas, whether the liquid propane gas source is community-based and captive or located on the property.

**Senate Bill 18**  
**Effective:** 9-1-11

**Senate Author:** Estes et al.  
**House Sponsor:** Geren et al.

Senate Bill 18 amends the Government Code to add a taking that is not for a public use to the list of prohibited private property takings through the use of eminent domain by a governmental or private entity. The bill specifies that provisions relating to the limitation on eminent domain for private parties or economic development purposes do not affect the authority of an entity authorized by law to take private property through the use of eminent domain for the operations of a common carrier pipeline. The bill authorizes a property owner whose property is acquired through the use of eminent domain for the purpose of creating an oil or gas pipeline easement, subject to certain requirements, to construct streets or roads at any location above the easement.

The bill establishes the Truth in Condemnation Procedures Act. The bill requires a governmental entity, before initiating an eminent domain condemnation proceeding by filing an applicable petition, to authorize the initiation of the condemnation proceeding at a public meeting by a record vote and include in the required notice for the public meeting the consideration of the use of eminent domain to condemn property as an agenda item. The bill authorizes a single

ordinance, resolution, or order to be adopted for multiple units of property to be condemned under certain circumstances and sets out related provisions.

The bill requires an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain, not later than December 31, 2012, to submit to the comptroller of public accounts a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The bill provides for the expiration of the authority of an entity to exercise the power of eminent domain beginning September 1, 2013, unless the entity submits such a letter. The bill requires the comptroller, not later than March 1, 2013, to submit to specified recipients a report that contains the name of each entity that submitted a letter and a corresponding list of the provisions granting eminent domain authority as identified by each entity. The bill requires the Texas Legislative Council to prepare for consideration by the 84th Legislature a nonsubstantive revision of Texas statutes as necessary to reflect the state of the law after the expiration of an entity's eminent domain authority.

Senate Bill 18 amends the Education Code to authorize an independent school district to exercise the right of eminent domain to acquire real property for a public use necessary for the district. The bill amends the Local Government Code to authorize a municipality or county to exercise the right of eminent domain for a public use, rather than a public purpose.

Senate Bill 18 amends the Property Code to refer to "entity" rather than "governmental entity" in the general law on eminent domain proceedings. The bill requires an entity with eminent domain authority that wants to acquire real property for a public use to disclose to the property owner at the time an offer to purchase or lease the property is made all appraisal reports relating to the property prepared in the 10 years preceding the offer date. The bill requires a property owner, by a certain deadline, to disclose all current and existing appraisal reports to the entity seeking to acquire the property. The bill prohibits an entity seeking to acquire property that the entity is authorized to obtain through eminent domain from including a confidentiality provision in an offer or agreement to acquire the property and requires the entity to inform the owner of certain owner rights. The bill requires an entity with eminent domain authority that wants to acquire real property for a public use to make a bona fide offer to acquire the property from the owner voluntarily and establishes the requirements for a bona fide offer.

The bill, in a provision authorizing the United States, the State of Texas, a political subdivision of the state, a corporation with eminent domain authority, or an irrigation, water improvement, or water power control district created by law that wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages to begin a condemnation proceeding by filing a petition in the proper court, removes the specification of types of entities and instead refers to an entity with eminent domain authority. The bill amends petition requirements.

The bill establishes several procedural changes to proceedings relating to the condemnation of property as well as disclosure obligations on the entity seeking to acquire private property. The bill requires a department, agency, instrumentality, or political subdivision of the state to provide a relocation advisory service for certain entities that is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The bill requires the state or a political subdivision of the state, as a cost of acquiring real property, to pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with an acquisition.

The bill requires a court hearing an eminent domain suit that determines that a condemnor did not make a bona fide offer to acquire property from a property owner voluntarily as required by

the bill to abate the suit, order the condemnor to make a bona fide offer, and order the condemnor to pay all costs of an eminent domain proceeding and any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

Senate Bill 18 extends the right to repurchase from a condemning entity a real property interest acquired by an entity through eminent domain for a public use to the heirs, successors, or assigns of the person from whom the property was acquired and establishes the conditions under which such persons are entitled to repurchase the property to include the following: if the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use; if no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or if the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition. The bill eliminates language making provisions on the repurchase of real property from a governmental entity applicable only to a real property interest acquired through eminent domain for a public use that was canceled before the 10th anniversary of the date of acquisition. The bill removes language making the repurchase of real property provisions inapplicable to a right-of-way under the jurisdiction of a county, a municipality, or the Texas Department of Transportation. The bill defines the term "actual progress."

The bill requires an entity that acquired a real property interest through eminent domain that determines the former property owner is entitled to repurchase the property, by a certain deadline, to send, by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a certain notice. The bill authorizes a property owner or the owner's heirs, successors, or assigns, on or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, to request that the condemning entity make a determination and provide a statement and other relevant information regarding the condemned property and its public use. The bill requires the entity, by a certain deadline, to send a written response by certified mail, return receipt requested, to the requestor. The bill establishes that the right to repurchase real property from a condemning entity is extinguished on the first anniversary of the expiration of the period for an entity to provide notice under certain circumstances. The bill requires an entity, as soon as practicable after receipt of a notice of intent to repurchase condemned property, to offer to sell the property interest for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.

Senate Bill 18 amends the Transportation Code, in a provision on the sale and transfer of real property no longer needed for a state highway purpose, to establish that the standard for determining the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that the Texas Transportation Commission applies in the acquisition of access rights for a controlled access highway and in the payment of damages in the exercise of its control of access authority for impairment of highway access to or from real property where the real property adjoins the highway.

Senate Bill 18 amends the Water Code to prohibit a municipal utility district from exercising the power of eminent domain outside its boundaries to acquire a site or easement for a road project. The bill removes the acquisition of a trail as an exception to the prohibition on a municipal utility district exercising the power of eminent domain outside its boundaries to acquire a site for a park, swimming pool, or other recreational facility. The bill removes the prohibition on a municipal utility district exercising the power of eminent domain outside its boundaries to acquire a site for a trail on real property designated as a homestead.

Senate Bill 18 amends the law to prohibit certain nonprofit corporations incorporated under Texas law for purely charitable purposes from exercising the power of eminent domain and condemnation to acquire certain property.

Senate Bill 18 repeals provisions relating to the production of information by a nongovernmental body authorized to exercise eminent domain and relating to production of information on condemnation by certain entities considered to be critical infrastructure.

**Senate Bill 710**  
**Effective:** 9-1-11

**Senate Author:** Van de Putte  
**House Sponsor:** Menendez

Senate Bill 710 amends the Property Code to expand the contents of the seller's disclosure notice of a property's condition, which is required to be executed by a seller of certain residential real property and given to the purchaser of the property, to include a space for the seller to indicate if the seller is aware or unaware of a single blockable main drain in a pool, hot tub, or spa and a statement notifying the purchaser that a single blockable main drain may cause a suction entrapment hazard for an individual.

**Senate Bill 1187**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Hartnett

Senate Bill 1187 amends a provision of the Property Code relating to the time at which notice of a recorded lis pendens takes effect to include as a condition for its effect that the notice is indexed by the county clerk in the manner provided by law. The bill adds the indexing of a notice of lis pendens to the recording of that notice as a condition that prevents a transfer or encumbrance of real property involved in a proceeding by a party to the proceeding to a third party who has paid a valuable consideration and who does not have actual or constructive notice of the proceeding from taking effect.

**Senate Bill 1368**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Deshotel

Senate Bill 1368 amends the Property Code to establish conditions under which a co-owner of residential property is authorized to act in the name of and on behalf of another co-owner, whether known or unknown, as the co-owner's statutory agent and attorney-in-fact. The bill specifies the scope of such authority, makes the authority applicable only to residential property that meets specified criteria, and authorizes the occupying co-owner to establish the authority by filing certain documentation in the office of the county clerk of the county in which the real property is located.

**Senate Bill 1496**  
**Effective:** 9-1-11

**Senate Author:** Uresti  
**House Sponsor:** Anderson, Rodney

Senate Bill 1496 amends the Property Code to allow a correction instrument relating to the conveyance of real property to correct an ambiguity or error in a recorded original instrument of conveyance to transfer real property or an interest in real property, including an ambiguity or error that relates to the description of or extent of the interest conveyed. The bill prohibits a correction instrument from correcting an ambiguity or error in a recorded original instrument of conveyance to transfer real property not originally conveyed in the instrument of conveyance for purposes of a sale of real property under a power of sale conferred by a deed of trust or other contract lien unless the conveyance otherwise complies with all requirements of provisions generally applicable to liens. The bill authorizes a person who has knowledge of facts relevant to the correction of a recorded original instrument of conveyance to execute a correction instrument to make a nonmaterial change relating to a clerical error, authorizes the parties to the original transaction or the parties' heirs, successors, or assigns, as applicable, to execute a correction instrument to make a material correction as well as a nonmaterial correction to the

recorded original instrument of conveyance, sets out requirements for executing such correction instruments, and establishes the effects of a correction instrument.

## **Landlord-Tenant**

**House Bill 1111**  
**Effective:** 1-1-12

**House Author:** Hartnett et al.  
**Senate Sponsor:** Harris

Under current law, a justice court in an appeal of a residential eviction suit is required to determine the amount of rent to be paid each rental pay period during the pendency of any appeal and to note that amount in the judgment. A tenant in such an appeal may file a sworn pauper's affidavit with a justice court if the tenant is unable to pay the cost of appeal or file an appeal bond. House Bill 1111 amends the Property Code to require a justice court, if a tenant files such an affidavit, to provide to the tenant a written notice containing certain information relating to the initial deposit of rent the tenant must pay into the justice court registry and to require that an initial deposit be paid into the registry within five days of the date the tenant files the pauper's affidavit. The bill grants a justice court the jurisdiction to issue a writ of possession under certain conditions and sets out the conditions under which a justice court is required to issue and is prohibited from issuing a writ of possession. The bill also specifies that a tenant's failure to pay rent during an appeal of an eviction case for nonpayment of rent is the failure to pay such rent as it becomes due under the applicable rental agreement.

**House Bill 1168**  
**Effective:** 9-1-11

**House Author:** Miller, Doug et al.  
**Senate Sponsor:** Van de Putte

House Bill 1168 amends provisions of the Property Code relating to the installation of devices for smoke detection and alert in residential rental units to change the required locations of such devices and to replace references to smoke detectors with references to smoke alarms. The bill authorizes a smoke alarm to be powered by a battery if certain criteria are met and changes the conditions for an exemption from the prohibition against a local ordinance requiring that a smoke alarm powered by alternating current be installed in a residential rental unit. It repeals a provision relating to the installation of smoke detectors in dwelling units constructed or occupied on or before September 1, 1981.

House Bill 1168 requires a landlord or the landlord's agent, if the landlord has installed a certain type of non-rechargeable fire extinguisher in a residential rental unit, to meet specified inspection requirements for the fire extinguisher. The bill provides that a fire extinguisher that satisfies those requirements at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests an inspection in writing and establishes the conditions under which the landlord is required to repair or replace a fire extinguisher.

**House Bill 1429**  
**Effective:** Vetoed

**House Author:** Deshotel  
**Senate Sponsor:** Carona

House Bill 1429 amends the Property Code to require a landlord to provide, within specified deadlines, at least one copy of a signed lease to at least one tenant on the lease and to other tenants on the lease if a written request is made. The bill authorizes a tenant, after providing notice to the landlord, to file a lawsuit against the landlord to obtain a copy of a lease and recover actual damages resulting from the failure by the landlord to provide a copy of the lease, court costs, and reasonable attorney's fees. The bill prohibits a landlord from taking certain retaliatory action against a tenant because the tenant establishes, attempts to establish, or participates in a tenant organization.



Reason Given for Veto: “House Bill 1429 would create a new cause of action allowing residential tenants to file suit against landlords who fail to provide tenants with a copy of their lease in certain circumstances. This legislation would expose landlords to private legal claims, including damages, attorney fees and costs, for failure to turn over the lease as required. Although House Bill 1429 requires a tenant to provide notice to a landlord before filing suit, the notice requirement does not give the landlord time to address the violation before a lawsuit is filed, thus having no effect on preventing litigation. Furthermore, House Bill 1429 provides that a tenant may be awarded attorney’s fees in a lawsuit filed under the bill’s provisions, creating an incentive for attorneys to seek out and file such suits. The litigation expenses incurred by landlords as a result of this bill could be significant, and would likely be passed on to other tenants through higher rents and fees. Thus, although the bill seeks to protect tenants in rare cases where they are not provided with a copy of their lease when it is signed, I believe it would do more harm than good.”

**House Bill 1862**

**Effective:** 9-1-11

**House Author:** Anchia

**Senate Sponsor:** West

House Bill 1862 amends the Property Code to hold a landlord liable to a tenant who is not in default under a 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, and court costs and attorney’s fees arising from any related cause of action by the tenant against the landlord, 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.

**Mortgages, Liens, and Foreclosures**

**House Bill 1118**

**Effective:** 6-17-11

**House Author:** Ritter et al.

**Senate Sponsor:** Huffman

House Bill 1118 amends the Tax Code to authorize a taxing unit that is a party to a judgment foreclosing tax liens on real property to sell the property to the taxing unit at a private sale, in lieu of a public sale, for an amount equal to or greater than its market value, as shown by the most recent certified appraisal roll, if specified criteria are met. The bill provides for the effect of such a sale on certain liens on the property and for the execution of a deed to the property by the presiding officer of the taxing unit selling the property. The bill makes a taxing unit that does not consent to a private sale liable to the taxing unit that purchased the property for certain costs incurred by the purchasing unit in maintaining the property and provides for the calculation of those costs.

**House Bill 1390**

**Effective:** 9-1-11

**House Author:** Deshotel et al.

**Senate Sponsor:** Estes

House Bill 1390 amends provisions of the Property Code relating to the procedures for making a claim for retainage under certain construction contracts between a property owner and an original contractor. The bill changes the conditions under which such a claim accrues, amends provisions relating to a notice for a contractual retainage claim made by a derivative claimant, and establishes conditions under which the claimant has a lien on, and the owner is personally liable to the claimant for, the retained funds. It amends provisions relating to a subcontractor’s authority to claim a lien if the property owner fails to send a required notice to the subcontractor within a specified period after an original contract is terminated or the original contractor abandons performance under the original contract.

House Bill 1390 expands the information the owner, on written request, must provide to any person furnishing labor or materials for the construction project to include the date on which the original contract for the project was executed. A subcontractor who requests and does not receive



## Property Interests and Housing

that date within a prescribed period is not required to comply with the notification requirements for a contractual retainage claim and may perfect a lien for retainage by filing a lien affidavit as provided by state law. The original contractor also is required to provide that date on written request by a person who furnished work under the original contract. The bill expands and amends the grounds for objecting to the validity or enforceability of a retainage claim or lien for purposes of a summary motion to remove an invalid or unenforceable lien.

**House Bill 1456**  
**Effective:** 1-1-12

**House Author:** Orr  
**Senate Sponsor:** Deuell

House Bill 1456 amends the Property Code to include a contractor or subcontractor of a property owner or property owner's agent among the parties entitled to a mechanic's, contractor's, or materialman's lien on the property based on the contractor or subcontractor providing labor and supplies for the installation of landscaping for a house, building, or improvement under a written contract with the owner or owner's agent. The bill specifies the conditions under which the waiver and release of such a lien or of a payment bond claim is enforceable and provides the required language for and purposes of the different types of waiver and release documents. It makes void as against public policy any contract, agreement, or understanding purporting to waive the right to file or enforce any such lien or claim. The bill establishes the conditions under which a waiver or release is construed to comply with its provisions and exempts certain written agreements from those provisions.

**House Bill 1510**  
**Effective:** 9-1-11

**House Author:** Hamilton  
**Senate Sponsor:** Carona

House Bill 1510 amends the Occupations Code to authorize the release of certain liens on a manufactured home or a tax lien on a manufactured home perfected with the Texas Department of Housing and Community Affairs (TDHCA) only by specified TDHCA procedures. The bill revises procedures relating to a perfected real property election of a manufactured home, specifying that the owner of a manufactured home who elects to treat the home as real property must notify the chief appraiser of the applicable appraisal district instead of the tax assessor-collector that a certified copy of the statement of ownership has been filed with the county. The bill repeals a provision relating to the filing requirements for a seller who accepts a trade-in manufactured home as part of the consideration for the sale of another manufactured home.

**House Bill 3337**  
**Effective:** 9-1-11

**House Author:** Gonzales, Veronica et al.  
**Senate Sponsor:** Hinojosa

House Bill 3337 amends the Property Code to increase from 575,000 or less to 800,000 or less the population threshold for a county in which an emergency medical services provider is recognized as having a lien on a cause of action or claim of an individual who receives emergency medical services for injuries caused by an accident that is attributed to the negligence of another person.

**Senate Bill 266**  
**Effective:** 9-1-11

**Senate Author:** Williams  
**House Sponsor:** Harless

Senate Bill 266 amends Property Code provisions relating to deadlines for notices required in connection with a mechanic's lien. The bill clarifies the deadline by which the holder of a mechanic's lien is required to file with the appropriate county tax assessor-collector's office a copy of the lien notice sent to the owner of the motor vehicle and each lien holder recorded on the certificate of title as not later than the 30th day after the date on which the charges accrue. The bill changes the deadline by which the tax assessor-collector must provide a copy of the

notice to the owner of the motor vehicle and each holder of a lien recorded on the motor vehicle's certificate of title from the 10th day after the date the county tax assessor-collector receives the notice and required information to the 15th business day after that date. The bill specifies that notices required in connection with a mechanic's lien apply regardless of the date on which the charges on which the lien is based accrued.

**Senate Bill 328**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Deshotel

Senate Bill 328 amends the Property Code to require a hospital or emergency medical services provider, in order to secure a lien on a cause of action or claim of an individual who receives hospital services or emergency medical services in certain counties, as applicable, for injuries caused by an accident that is attributed to the negligence of another person and in addition to other measures, to provide notice to the injured individual or the injured individual's legal representative by a specified deadline. The bill requires the notice to be sent by regular mail to the individual's last known address, providing an exemption to that requirement under certain conditions, and to inform the individual that the lien will attach to any cause of action or claim the individual may have against another person for the individual's injuries and that the lien does not attach to real property owned by the individual. The bill establishes that the failure of an individual to receive notice mailed in accordance with the bill's provisions does not affect the validity of a hospital or emergency medical service lien.

**Senate Bill 539**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Kleinschmidt

Senate Bill 539 amends provisions of the Property Code governing mechanic's, contractor's, or materialman's liens to require, rather than authorize, a court to award costs and reasonable attorney's fees as are equitable and just in any proceeding to foreclose such a lien or to enforce a claim against a bond or to declare that any lien or claim is invalid or unenforceable in whole or in part. The bill provides an exemption from this requirement if the lien or claim arises out of a residential construction contract.

**Senate Bill 690**  
**Effective:** 1-1-12

**Senate Author:** Carona  
**House Sponsor:** Miller, Sid

Senate Bill 690 amends provisions of the Property Code to entitle 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 to which a servicemember is entitled under federal law. The bill requires the notice of claim a lessor of a self-service storage facility must provide to a tenant whose property the lessor is claiming to include a statement requesting a tenant who is in military service to notify the lessor immediately of the tenant's current military service status and authorizes the lessor to require documentation of such service. The bill makes changes to the required methods for delivering the notice.

Senate Bill 690 establishes requirements for a lessor taking possession of certain motor vehicles, motorboats, vessels, or outboard motors for purposes of enforcing a self-service storage facility lien to give written notice of sale to the last known owner and each lienholder of the property. The bill authorizes the owner or lienholder, after proper notification, to take possession of the property by paying all charges due to the lessor within a specified period and authorizes the lessor to sell the property at a public sale and apply the proceeds to the charges if the charges are not paid within that period. The bill makes it a Class B misdemeanor to knowingly provide false or misleading information in such a notice. The bill exempts a self-service storage facility from statutory provisions governing miscellaneous liens and medical records privacy.

**Senate Bill 762**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Paxton

Previous law relating to the transfer of a property tax lien and a tax collector's certification following such a transfer required the collector to certify in one document the transfer of the liens for all the taxes if the property owner has executed an authorization consenting to a transfer of the tax liens for both delinquent and non-delinquent taxes on the property. Senate Bill 762 amends the Tax Code to authorize, rather than require, the certification to be in one document.

The bill prohibits a transferee of a tax lien from charging a fee for any expenses arising after closing, with certain exceptions. The bill authorizes the contract between the property owner and the transferee to provide for interest for default, in addition to interest charged on funds advanced, if any part of the installment remains unpaid after the 10th day after the date the installment is due. If the lien transferred is on residential property owned and used by the property owner for personal, family, or household purposes, the additional interest is capped at five cents for each \$1 of a scheduled installment. The bill exempts a transferee from being required to release payoff information following notice of a delinquency of an obligation secured by a preexisting first lien on property unless the notice contains the information prescribed by the Finance Commission of Texas. The bill removes the limit on attorney's fees a transferee is entitled to recover if a foreclosure suit results in foreclosure of the lien.

Senate Bill 762 amends the Finance Code to authorize the contract between a property tax lender and a property owner to require the property owner to pay certain specified costs after closing. The bill requires a property tax lender to provide a property owner one free copy of the transaction documents at closing and an additional free copy on the property owner's request following closing. A property tax lender may not charge any fee, other than interest, after closing in connection with the transfer of a tax lien unless the fee is expressly authorized under certain provisions of the bill, nor any interest that is not expressly authorized under the Tax Code provisions relating to tax lien transfers. The bill requires any amount charged by a property tax lender after closing to be for services performed by a person that is not a lender employee, with certain exceptions. The bill authorizes the finance commission to adopt rules implementing and interpreting the Finance Code provisions relating to authorized charges.

The bill authorizes the consumer credit commissioner to assess an administrative penalty against a transferee who violates a Tax Code requirement to send, in the time and manner specified, to any mortgage servicer and to each holder of a recorded first lien encumbering the property a copy of the property owner's sworn document authorizing another person to pay the property taxes on the person's property, regardless of whether the violation is knowing or wilful.

The bill requires the finance commission to study the expenses charged to property owners by property tax lenders in conjunction with the transfer of property tax liens and the payoff of loans secured by such liens and to report the findings to the legislature not later than June 1, 2012.

**Senate Bill 889**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Davis, Sarah

Senate Bill 889 amends the Property Code to establish that an enforceable security instrument creates an assignment of rents arising from real property securing an obligation under the security instrument, except under certain conditions, and 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 the form of the document. The bill establishes that the security interest in rents is separate and distinct from any security interest held by the assignee in the real property from which the rents arise and that an assignment of rents does not reduce the secured obligation except to a specified extent. The bill sets out provisions relating to the recording and perfecting of security interests in rents and the priority of such

interests, the means by which an assignee may enforce a security interest in rents and the effect of such enforcement, and the application of proceeds obtained by an assignee from the collection of rents or collection on a judgment in an action under the bill's provisions. It also provides for notification of applicable parties regarding the assignment of rents; claims and defenses of a tenant; the turnover of rents and the liability of an assignor; and the attachment, perfection, and priority of an assignee's security interest in any proceeds.

**Senate Bill 1320****Effective:** 9-1-11**Senate Author:** Lucio et al.**House Sponsor:** Gonzales, Veronica

Senate Bill 1320 amends the Business & Commerce Code to prohibit 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 property 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. A deed executed in violation of this prohibition is voidable unless certain conditions are met and 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 the prohibition. The bill provides a deadline for a purchaser or a borrower to bring an action to void such a deed and provides for the recovery of reasonable and necessary attorney's fees by a purchaser or borrower who is a prevailing party in such an action. The bill sets out provisions relating to the actions the attorney general is authorized to bring to require compliance with, or recover a civil penalty for a violation of, these provisions of the bill.

Senate Bill 1320 amends the Civil Practice and Remedies Code to authorize an officer taking an acknowledgment of a deed or other instrument relating to a residential real estate transaction to accept a current passport issued by a foreign country as satisfactory evidence of the identity of an acknowledging person.

Senate Bill 1320 amends the Property Code to establish that a justice court does not have jurisdiction in a forcible entry and detainer or forcible detainer suit and requires the justice court to dismiss the suit if the defendant files a sworn statement alleging the suit is based on a deed executed in violation of the prohibition against executing a deed conveying residential real property in certain transactions.

## Property Owners' Associations and Restrictive Covenants

**House Bill 232****Effective:** 6-17-11**House Author:** White et al.**Senate Sponsor:** Ogden

House Bill 232 amends the Property Code title relating to restrictive covenants to revise the applicability of the chapter relating to the amendment and enforcement of restrictions that by the terms of the instrument creating them are not subject to an amendment process or require unanimous consent for amendment. The bill makes the chapter applicable to a residential real estate subdivision or any unit or parcel of a subdivision 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, in addition 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 that has a population of less than 65,000. The bill, in a temporary provision that expires September 1, 2015, expands the applicability of the chapter to include restrictions that, by the terms of the instrument creating them, provide that amendments to the restrictions are

not operative or effective until a specified date or the expiration of a specified period. The bill establishes that an amendment of a restriction is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which the subdivision is located after the approval of the owners.

**House Bill 362**  
**Effective:** 6-17-11

**House Author:** Solomons et al.  
**Senate Sponsor:** West

House Bill 362 amends the Property Code to prohibit a property owners' association from including or enforcing a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device and makes void a provision violating this prohibition. The bill exempts from the prohibition a solar energy device that meets specified requirements and authorizes the declarant of a subdivision to prohibit or restrict a property owner from installing a solar energy device during the subdivision's development period. The bill prohibits an association or the association's architectural review committee from withholding approval of the installation of a solar energy device that meets or exceeds the minimum requirements of a dedicatory instrument unless the association or committee, as applicable, determines in writing that placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The bill establishes the means for making that determination.

House Bill 362 prohibits a property owners' association from including or enforcing a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that are designed primarily to be wind and hail resistant, provide heating and cooling efficiencies greater than those provided by customary composite shingles, or provide solar generation capabilities and meet certain requirements relating to the installed shingles' appearance and durability. The bill makes its provisions applicable to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the bill's effective date.

**House Bill 1071**  
**Effective:** 6-17-11

**House Author:** Davis, Sarah  
**Senate Sponsor:** Ellis

House Bill 1071 amends the Property Code to authorize the extension of deed restrictions in certain residential real estate subdivisions by the written consent of the owners of a majority of the lots in the subdivision without respect to the number of lots owned by a particular owner. This provision applies only to a residential real estate 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 and is subject to certain types of restrictions. The bill sets out procedures for successive extensions of deed restrictions and provides for the effect of the signature of a property owner on a petition or written ballot for a successive extension. The bill authorizes restrictions to be extended under its provisions without the creation of or action by a property owners' association or similar organization, provides for the effective date of an extension of restrictions and the length of the extension period, and sets out procedures for terminating a restriction.

House Bill 1071 provides for the applicability of extended restrictions under its provisions and establishes that any provision in an extended restriction that is void and unenforceable under the United States Constitution is considered as if the provision was never contained in the restrictions. The bill authorizes the procedure provided by the original restrictions for the initial extension of those restrictions, in addition to the procedure for extending restrictions as provided by the bill, to be used for successive extensions of the original restrictions in certain



circumstances and specifies the term for such an extension. The bill establishes that the procedure provided by the bill's provisions for the extension or termination of restrictions is cumulative of and not in lieu of any other method by which restrictions of a subdivision to which the bill's provisions apply may be added to, modified, created, extended, or terminated. The bill establishes requirements for construing its provisions, any petition or ballot made or action taken in connection with an attempt to comply with those provisions, and a deed restriction extended under its provisions.

**House Bill 1228****Effective:** See below**House Author:** Dutton**Senate Sponsor:** West

House Bill 1228 amends the Property Code to require 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. The association is required to file the guidelines in the real property records of each county in which the subdivision is located, and certain associations are exempted from those requirements.

House Bill 1228 requires a payment received by an association from the owner to be applied to the owner's debt in a specified order of priority unless the owner is in default under a payment plan entered into with the association, in which case a fine assessed by the association may not be given priority over any other amount owed to the association. The bill restricts an association's authority with regard to third-party collections and specifies that an owner is not liable for fees of a collection agent retained by the association under certain circumstances.

House Bill 1228 prohibits an association from foreclosing an assessment lien on real property by giving notice of sale or by commencing a judicial foreclosure action unless the association has provided notice of the amount of the delinquency to certain lienholders and provided a recipient of the notice an opportunity to cure the delinquency. The bill also prohibits an association, with certain exceptions, from foreclosing an assessment lien unless the association first obtains a court order in an application for expedited foreclosure under certain rules adopted by the Supreme Court of Texas. A provision granting a right to foreclose a lien on real property for unpaid amounts due to an association may be removed from or adopted in a dedicatory instrument by a specified vote. The bill specifies that a lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to an association and filed in the official public records of a county is a legal instrument affecting title to real property. The bill takes effect January 1, 2012, except for provisions requiring the supreme court to adopt rules establishing expedited foreclosure proceedings, which take effect September 1, 2011.

**House Bill 1278****Effective:** 6-17-11**House Author:** Coleman et al.**Senate Sponsor:** Seliger

House Bill 1278 amends the Property Code to prohibit a property owners' association, with certain exceptions, 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. Except as otherwise provided by the bill, an owner or resident is not authorized 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 those areas that is not authorized by the restrictive covenants governing the dwelling. A property owners' association may remove an item displayed in violation of a restrictive covenant permitted by the bill's provisions.



**House Bill 1737**  
**Effective:** 6-17-11

**House Author:** Bohac  
**Senate Sponsor:** Huffman

House Bill 1737 amends the Transportation Code to authorize a property owners' association to install a speed feedback sign on a road, highway, or street in the association's jurisdiction if the association receives the consent of the governing body of the political subdivision that maintains the road, highway, or street and the association pays for the installation of the sign. The bill specifies that the association is responsible for the maintenance of the sign.

**House Bill 1821**  
**Effective:** 1-1-12

**House Author:** Anderson, Rodney  
**Senate Sponsor:** West et al.

House Bill 1821 amends the Property Code to require the notice of obligations a seller of residential real property that is subject to membership in a property owners' association must give to the purchaser of the property to include statements relating to the owner's entitlement to copies of any document governing the association's establishment, maintenance, or operation and the availability of such documents to the purchaser. The bill provides for delivery to the purchaser by the association or its agent of a copy of the current resale certificate issued for the property and requires the purchaser to pay a fee for that service, except under certain conditions.

House Bill 1821 includes a purchaser of property in a subdivision or the purchaser's agent among the entities to which a property owners' association is required to deliver certain subdivision information on written request, changes the delivery deadline, and authorizes the association to require as a condition for delivery that the purchaser or agent provide reasonable evidence that the purchaser has a right to acquire property in the subdivision. A resale certificate provided in compliance with the delivery requirement must be prepared within a specified period before delivery. The bill revises the information that must be contained in the resale certificate, authorizes an association to require advance payment for the certificate, and changes the deadline for the association's delivery of an update of a resale certificate. An association is required to make certain dedicatory instruments relating to the association or subdivision available on a publicly accessible website, if available. The bill requires an association that meets specified criteria to adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the association for certain assessments without accruing additional monetary penalties.

**House Bill 2761**  
**Effective:** 1-1-12

**House Author:** Garza et al.  
**Senate Sponsor:** West et al.

House Bill 2761 amends provisions of the Property Code relating to the availability of a property owners' association's records for inspection by specified parties and establishes requirements relating to requests for copies of those records, assessing costs for compiling and reproducing the records, and releasing information contained in the records. The bill requires certain property owners' associations to adopt a records retention policy that meets certain minimum requirements. An association is prohibited from foreclosing an assessment lien of the association if the debt securing the lien consists solely of amounts added to the owner's account as an assessment for costs associated with the compilation, production, or reproduction of information contained in association records.

House Bill 2761 requires meetings of the governing board of a property owners' association to be open to owners, subject to the board's right to adjourn a board meeting and reconvene in closed executive session to consider certain actions. The bill prescribes certain methods of communication for association board meetings, establishes requirements relating to notification of an association election or vote, and sets out provisions relating to vote recounts, ballots, board membership, voting rights of property owners, and the election of board members. The

bill requires an association board to call an annual meeting of the association members and provides for a meeting of the members on demand of an owner if the board fails to meet that requirement. The bill exempts from certain provisions of the bill a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

**House Bill 2779****Effective:** 6-17-11**House Author:** Bohac et al.**Senate Sponsor:** Patrick et al.

House Bill 2779 amends the Property Code to prohibit a property owners' association from adopting or enforcing a dedicatory instrument provision that effectively prohibits or restricts an owner from displaying the flag of the United States, the State of Texas, or any branch of the U.S. armed forces on the owner's property. A property owners' association may adopt or enforce reasonable dedicatory instrument provisions requiring compliance with select federal and state laws and local ordinances and regulations on the display of such flags and the location and construction of the supporting flagpole and regulating certain matters relating to flags, flagpoles, and lights. An association may not prohibit the installation or erection of at least one flagpole per property that is not more than 20 feet in height.

**House Bill 2869****Effective:** 9-1-11**House Author:** Harper-Brown**Senate Sponsor:** Shapiro

House Bill 2869 amends the Property Code to establish provisions relating to the powers and duties of certain master mixed-use property owners' associations. The bill provides for the powers of the association's board of directors, the conduct of annual meetings of association members, and the members' voting entitlements. It establishes the means by which the association may enforce its restrictive covenants and entitles the prevailing party in an action based on breach of restrictive covenant to reasonable attorney's fees, costs, and actual damages. The association is authorized to adopt reasonable rules regulating common areas and is required to provide resale certificates only for residential properties and to record a management certificate in each county in which any portion of the development governed by the association is located. The bill establishes the priority for applying a payment received by the association from a property owner to the owner's debt and prohibits the association from foreclosing an association assessment lien unless the association first obtains a court order of sale.

**Senate Bill 472****Effective:** 9-1-11**Senate Author:** West**House Sponsor:** Giddings

Senate Bill 472 amends the Property Code to establish provisions under the Texas Residential Property Owners Protection Act relating to the adoption or amendment of certain dedicatory instruments; acceptable ballots in an election or vote of a property owners' association; the limitation of provisions in a dedicatory instrument relating to a property owner's right to vote on certain matters or to run for a position on the association's board; voting procedures and quorum requirements; and the tabulation of and access to ballots. The bill exempts from its provisions relating to acceptable ballots, voting procedures, and quorum requirements a property owners' association that is a mixed use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

## Property Interests and Housing

**The summaries for the following bills are in the listed chapters:**

House Bill 252 - Taxes and Tax Administration

House Bill 650 - Higher Education

Senate Bill 101 - Military Forces and Veterans

Senate Bill 767 - Business and Commerce

Senate Bill 1160 - Civil Remedies and Procedures

## Public Education

This chapter covers issues relating to the state's public school system, including school district, campus, and charter school operations. It contains legislation affecting the powers and duties of the Texas Education Agency, the State Board of Education, the State Board for Educator Certification, school district boards of trustees, school administrators, teachers, professional staff, and school employees, as well as legislation relating to students and school curricula. In addition, the chapter covers legislation relating to instructional materials and teacher and other employee contracts, and legislation relating to education benefits for military personnel. Legislation relating to truancy and disciplinary action leading to suspension or expulsion is in the **Juvenile Justice** chapter, and legislation on school finance is in the **Appropriations and State Finance** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 826**  
**Effective:** 9-1-11

**House Author:** Farias  
**Senate Sponsor:** Zaffirini

House Bill 826 amends the Education Code to require each school district, not later than December 1, 2011, 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.

**House Bill 861**  
**Effective:** 5-12-11

**House Author:** Patrick  
**Senate Sponsor:** Davis

House Bill 861 amends the Education Code to require at least one member of the continuing advisory committee for special education services appointed by the governor under federal law to be a director of special education programs for a school district or for a shared services arrangement of multiple school districts. The bill requires the governor, not later than February 1, 2013, to appoint a member to the continuing advisory committee as necessary to ensure that the committee's composition complies with this requirement.

**House Bill 1130**  
**Effective:** 9-1-11

**House Author:** Huberty  
**Senate Sponsor:** Seliger

House Bill 1130 repeals the Education Code provision requiring the Texas Education Agency to provide to each school district a list of districts that maintain for two successive years a ratio of full-time equivalent special education students placed in partially or totally self-contained classrooms to the number of full-time equivalent special education students placed in a resource room or mainstream instructional arrangements that is 25 percent higher than the statewide average ratio.

**House Bill 1286**  
**Effective:** 9-1-11

**House Author:** Howard, Donna et al.  
**Senate Sponsor:** Davis

House Bill 1286 amends the Education Code to prohibit the legislative council of the University Interscholastic League 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.

**House Bill 1555**  
**Effective:** 6-17-11

**House Author:** Thompson et al.  
**Senate Sponsor:** Ellis

House Bill 1555 amends the Education Code to authorize a school district with a student population of 190,000 or more to begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if the district at the beginning of the school year provides, with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the required minimum number of days of instruction; the campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the district board of trustees; and a majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

**House Bill 2135**  
**Effective:** 6-17-11

**House Author:** Hochberg et al.  
**Senate Sponsor:** Patrick

House Bill 2135 amends the Education Code to exempt a student enrolled in the fifth or eighth grade from the administration of a fifth or eighth grade statewide standardized test in a particular subject, as applicable, if the student is enrolled in a course in the subject intended for students above the student's grade level and will be administered a statewide standardized test that aligns with the curriculum for the course in which the student is enrolled or 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 test for the course. The bill prohibits such a student from being denied promotion on the basis of failure to perform satisfactorily on a test not required to be administered to the student.

House Bill 2135 establishes that state law does not prohibit the administration of a high school end-of-course test to a student enrolled below the high school level who is enrolled in the course for which the test is adopted. The bill requires the commissioner of education to adopt rules necessary to ensure that such a student's performance on the test is considered in the same manner as the performance of a student enrolled at the high school level, establishes that the performance of a student enrolled below the high school level on a high school end-of-course test is included with results relating to other students enrolled at the same grade level in the aggregated test results 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 such end-of-course tests.

**House Bill 2366**  
**Effective:** 6-17-11

**House Author:** Truitt  
**Senate Sponsor:** Nelson

House Bill 2366 amends the Education Code to establish that an open-enrollment charter school authorized by a charter granted to a municipality is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies applicable to open-enrollment charter schools receiving federal funding and to authorize such a 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 of such municipal employees admitted constitutes only a small percentage of the school's total enrollment, as may be further specified by federal regulation.

**House Bill 2678**  
**Effective:** 9-1-11

**House Author:** Smith, Todd  
**Senate Sponsor:** Wentworth

House Bill 2678 amends the Education Code to require the Sunset Advisory Commission, during its review of the Texas Education Agency (TEA) concerning the agency's abolition on September 1, 2013, to review TEA's jurisdiction and control over driver education and driving

safety schools and include in its report to the legislature and governor a recommendation as to whether another state agency should have such jurisdiction and control.

Current law requires TEA to provide to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course. House Bill 2678 authorizes TEA to provide, as an alternative to such certificates, certificate numbers to enable the school and each approved parent-taught course provider to print and issue TEA-approved driver education certificates, each with a unique number in serial order, and sets out requirements relating to the form used for such certificates, the printing and issuance of original and duplicate certificates by a school or course provider in a manner that prevents their unauthorized reproduction or misuse, and the electronic submission of related data to TEA.

House Bill 2678 requires TEA to review the national criminal history record information of a person who holds a driver education instructor license or a driver education school license and to place such a license on inactive status for the license holder's failure to comply with a deadline for submitting information required for review. The bill requires the commissioner of education by rule to establish a schedule for obtaining and reviewing the information a person must provide TEA for review and requires TEA, not later than September 1, 2013, to obtain all national criminal history record information on all holders of the designated licenses. The bill requires the commissioner by rule to require a person submitting to such a review or the driver education school employing the person, as determined by TEA, to pay a fee for the review and caps the amount of the fee. The bill exempts certain identifying information collected about a person for a criminal history record information review from the state's open records law and prohibits its release except by court order, with the subject's consent, or to provide relevant information to driver education schools or otherwise to comply with the bill's provisions. The bill requires such information to be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

House Bill 2678 requires a driver education school to discharge or refuse to hire as an instructor an employee or job applicant if TEA finds through a review that the employee or applicant has been convicted of a felony offense against a person, an offense requiring a convicted defendant's registration as a sex offender, or an equivalent offense under the laws of another state or federal law, and that, at the time of the offense, the victim of the offense was under 18 years of age or was enrolled in a public school. The bill requires TEA to suspend or revoke a driver education instructor license or a driver education school license and to refuse to issue or renew the license to a person convicted of such an offense. The bill makes these provisions inapplicable to a felony offense against a person if more than 30 years have elapsed since the offense was committed and the person convicted has satisfied all terms of the court order entered on conviction. The bill authorizes a driver education school to discharge an instructor if the school obtains information of a felony conviction or conviction of a misdemeanor involving moral turpitude that the employee did not disclose to the school or TEA.

House Bill 2678 authorizes the issuance of a driver education instructor license to a person who has completed the applicable education requirement but who does not hold the required certification and authorizes such a license to limit the license holder to teaching or providing classroom training in a driver education school located in a county that has a population of at least 275,000 but not more than 285,000 and is operated by a private primary or secondary school or open-enrollment charter school.

**House Bill 2909**  
**Effective:** 6-17-11

**House Author:** Branch  
**Senate Sponsor:** Shapiro

House Bill 2909 amends the Education Code to redesignate "Education: Go Get It" Week as Generation Texas Week and to include information about college readiness standards and



expectations regarding what students must know and be able to do to succeed in entry-level college courses among the information required to be provided to students by each middle school, junior high school, and high school during the week. The bill increases from three to six the number of additional members the co-chairs of the P-16 Council are authorized to appoint to the council.

The bill requires, rather than authorizes, the statewide public awareness campaign to promote the value and availability of higher education to include the provision of certain information and specifies that the information on the academic preparation needed to pursue a postsecondary education is the academic preparation needed to successfully pursue a postsecondary education, as determined under provisions of law relating to the advancement of college readiness in required public school curriculum.

The bill requires the Texas Higher Education Coordinating Board to coordinate with the Texas Education Agency, the P-16 Council, and other appropriate entities, including regional P-16 councils and businesses, to implement the public awareness campaign and removes a provision authorizing the coordinating board to coordinate with other agencies as necessary to develop and implement the campaign.

**House Bill 3506**  
**Effective:** 6-17-11

**House Author:** Villarreal  
**Senate Sponsor:** Davis

House Bill 3506 amends the Education Code to authorize a school district to use its transportation allotment funds to provide a bus pass or card for another transportation system to each student who is eligible to use the district's regular transportation system but for whom the district's regular transportation system is not a feasible method of providing transportation. The bill requires the commissioner of education by rule to provide procedures for a school district to provide bus passes or cards to students.

**House Joint Resolution 109**  
**For Election:** 11-8-11

**House Author:** Orr et al.  
**Senate Sponsor:** Ogden

House Joint Resolution 109 proposes an amendment to the state constitution to clarify references to the permanent school fund, to allow the General Land Office to distribute up to \$300 million per year in revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund.

**Senate Bill 6 (1st C.S.)**  
**Effective:** 7-19-11

**Senate Author:** Shapiro  
**House Sponsor:** Eissler et al.

Senate Bill 6 amends the Education Code to replace the state textbook fund with a newly created state instructional materials fund and to set out ways in which money in the new fund must be used. The bill requires the State Board of Education (SBOE) each year to set aside an amount equal to 50 percent of the annual distribution for that year from the permanent school fund to the available school fund to be placed in the fund, beginning with the state fiscal biennium beginning September 1, 2013, and requires the SBOE to set aside 40 percent of the yearly annual distribution in the 2012-2013 biennium for placement in the fund. The bill eliminates funds accruing from the state's sale of disused textbooks as a component of the fund.

Senate Bill 6 establishes an instructional materials allotment to which a school district, charter school, and juvenile justice alternative education program (JJAEP) are entitled. The allotment amount per student each year for a school district and charter school is based on the amount of money available in the state instructional materials fund to fund the allotment, while the allotment amount for a JJAEP is determined by the commissioner of education. The bill sets out

the authorized and required uses of allotment funds and provides for adjustments to the student enrollment count used to determine a school district's or charter school's entitlement to allotment funds based on student population growth or decline. The bill establishes the commissioner's rulemaking authority with regard to the allotment.

Senate Bill 6 authorizes the commissioner to establish a temporary grant program under which grants are awarded to school districts and charter schools to implement a technology lending program to loan students equipment necessary to access and use electronic instructional materials. The bill specifies the factors the commissioner must consider in awarding grants, limits the amount from the state instructional materials fund that the commissioner may use on the grant program, sets out the authorized uses of grant funds, and provides for a review of the program. The program expires September 1, 2015.

Senate Bill 6 removes economics with emphasis on the free enterprise system and its benefits as a subject under the enrichment curriculum and includes it as a component of social studies under the foundation curriculum. The bill prohibits a school district from charging a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment.

Senate Bill 6 specifies the materials that a school district or charter school is authorized to consider in determining whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by law. The bill authorizes the SBOE, if the commissioner places material on the commissioner's adopted list of electronic instructional material and material that conveys certain information to students, to require the commissioner to remove the material from the list not later than the 90th day after placement. The bill removes the requirement that the removal of an electronic textbook or instructional material from the commissioner's adopted list be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.

Senate Bill 6 transfers the authority to purchase special instructional materials for the education of blind and visually impaired students in public schools from the SBOE to the commissioner. The bill transfers the authority to purchase or otherwise acquire instructional materials for use in bilingual education classes from the SBOE to each school district and specifies that such a purchase is to be made with the district's instructional materials allotment. The bill requires the commissioner to adopt rules regarding the purchase of such instructional materials.

Senate Bill 6 requires the commissioner to maintain an online requisition system for school districts to requisition instructional materials to be purchased with the district's instructional materials allotment.

Senate Bill 6 authorizes a school district board of trustees or a charter school's governing body to sell printed instructional material on the date the instructional material is discontinued for use in the public schools by the SBOE or the commissioner and authorizes the board or governing body to sell electronic instructional materials and technological equipment owned by the district or school. The bill authorizes a district board or governing body of a charter school to dispose of printed instructional material before the date the instructional material is discontinued under certain conditions. The bill sets out requirements for the sale of instructional materials or equipment.

Previous law required a publisher or manufacturer of instructional materials to deliver instructional materials to a district or charter school or to maintain a depository in Texas or arrange with a depository in Texas to receive and fill orders. Senate Bill 6 removes the depository option and removes the condition that the delivery of instructional materials by a publisher or manufacturer be made without a delivery charge to the district, school, or state.

Senate Bill 6 combines the conforming and nonconforming lists of instructional materials required to be adopted by the SBOE into a single list that includes each instructional material submitted for each subject and grade level that meets applicable physical specifications adopted by the SBOE and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version, as determined and adopted by the SBOE. The bill requires the SBOE to determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The bill authorizes the SBOE to review open-source instructional material not later than the 90th day after the date the material is submitted for adoption and requires the SBOE to post with the list of adopted instructional materials the SBOE's comments regarding the open-source instructional material placed on the list and to distribute the comments to school districts.

Senate Bill 6 clarifies that the SBOE, in adopting a review and adoption cycle for instructional materials, is not required to review and adopt instructional materials for all grade levels in a single year and requires the SBOE to give priority to the instructional materials of certain subjects. The bill changes the maximum portion of the instructional materials for subjects in the foundation curriculum under review by the SBOE; lengthens the frequency by which SBOE rules must provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum; and changes the deadline by which the SBOE is required to publish notice of the review and adoption cycle for instructional materials.

Among others, Senate Bill 6 repeals provisions relating to textbook credits and requisitions, the \$30 technology allotment, and the education Internet portal.

**Senate Bill 8 (1st C.S.)**

**Effective:** 9-28-11

**Senate Author:** Shapiro et al.

**House Sponsor:** Eissler

Senate Bill 8 amends the Education Code to revise and expand the grounds for rendering a school district employee's probationary, continuing, or term contract void on the basis of a failure to meet certain requirements relating to the employee's certification and revises a school district's authority to terminate an employee whose contract is void, suspend the employee with or without pay, or retain the employee for the remainder of the school year on an at-will basis. The bill prohibits a school district from terminating or suspending an employee whose contract is void because of the employee's failure to renew or extend the employee's certificate or permit if the employee requests an extension from the State Board for Educator Certification (SBEC) to renew, extend, or otherwise validate the certificate or permit and, not later than the 10th day after the date the contract is void, takes necessary measures to renew, extend, or otherwise validate that certificate or permit, as determined by SBEC.

Senate Bill 8 changes the deadline by which a school district board of trustees is required to notify a teacher employed under a probationary contract and a teacher whose contract is about to expire of its decision to terminate the teacher's employment at the end of the contract period or of its intent to renew or not renew the expiring contract, as applicable, and sets out requirements for delivery of such notice. The bill entitles a teacher employed under a probationary contract or a continuing contract to a hearing before a hearing examiner if the teacher is protesting a proposed discharge or suspension without pay and to a hearing either before the board of trustees in the manner provided for a hearing on the nonrenewal of a term contract or before a hearing examiner, as determined by the board, if the teacher is protesting proposed action to terminate the contract before the end of the contract period on the basis of a financial exigency declared by the board that requires a reduction in personnel.

Senate Bill 8 authorizes the board of trustees of a school district with an enrollment of at least 5,000 students to designate a licensed attorney who is neither employed by nor affiliated with the

district to hold a hearing on a proposed nonrenewal of a teacher's term contract on the board's behalf, to create a hearing record for the board's consideration and action, and to recommend an action to the board. The bill requires the board to consider the record and recommendation at the first board meeting for which notice can be posted following the receipt of the record and recommendation, unless the parties agree in writing to a different date.

Senate Bill 8 authorizes the board of trustees of a school district, on the basis of a declared financial exigency that requires a reduction in personnel, to amend the terms of the contract of a superintendent employed under a term contract and authorizes a superintendent whose contract is so amended to resign without penalty by providing reasonable notice to the board and to continue employment for that notice period under the prior contract.

Senate Bill 8 authorizes a school district board of trustees to implement a furlough program and reduce the number of days of service otherwise required by law by not more than six days of service during a school year if the commissioner certifies that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year. The bill authorizes the board of trustees to reduce the salary of a furloughed employee in proportion to the number of days by which service is reduced; sets out conditions and restrictions applicable to a furlough program; and establishes the required process for the development of a furlough program or other salary reduction proposal. The bill requires a district to reduce the amount of the annual salary paid to each district administrator or other professional employee in an amount relative to the average reduction in teacher salaries if a widespread reduction in the amount of the annual salaries paid to school district classroom teachers is based primarily on district financial conditions rather than on teacher performance.

Senate Bill 8 requires the commissioner, not later than July 1 of each year, to determine for each school district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010-2011 school year and, if the amount is less, to certify the percentage decrease in funding.

Senate Bill 8 authorizes a school district board of trustees to adopt a resolution declaring a financial exigency for the district, limited to the fiscal year during which the declaration is made unless the board adopts a resolution declaring a continuation of the exigency for the following year. The bill requires the board to notify the commissioner each time the board adopts a resolution and requires the commissioner by rule to prescribe the time and manner in which notice must be given and to adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency.

Senate Bill 8 requires a candidate for certification as a teacher of record, before a school district may employ the candidate, to complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervision at a public school campus or private school accredited, recognized, or approved, as applicable, for this purpose by the Texas Education Agency. The bill makes this requirement applicable only to an initial certification issued on or after September 1, 2012; requires SBEC to propose rules relating to field-based experience requirements; and requires the commissioner by rule to adopt procedures and standards for recognizing a private school. The bill changes the manner in which reductions in personnel employed under a continuing contract are to be made by requiring such a reduction to be made based primarily on teacher appraisals in the specific teaching fields and other criteria determined by the board, rather than in reverse seniority. The bill limits a school district's required annual physical fitness assessment of students in grade three or higher to students enrolled in a course that satisfies the curriculum requirements for physical education. The bill authorizes a school district to require a person who requests public

information provided by the district to pay the estimated charges for the request before the request is fulfilled.

Senate Bill 8 repeals provisions entitling a classroom teacher, full-time speech pathologist, full-time librarian, full-time certified counselor, or full-time school nurse to a salary that is at least equal to the salary the employee received for the 2010-2011 school year; requiring an open-enrollment charter school to increase the monthly salary of certain professional staff; and requiring certain school districts with a student membership of more than 5,000 that do not provide child-care services to consider and hold a public hearing regarding the need for such services.

**Senate Bill 89**  
**Effective:** 9-1-11

**Senate Author:** Lucio et al.  
**House Sponsor:** Rodriguez

Senate Bill 89 amends the Agriculture Code to require 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 district's summer recess. The bill requires the Department of Agriculture, not later than October 31 of each year, to notify each school district of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer and requires each district so notified either to inform the department of its intent to comply with the requirement or to request a waiver not later than January 31 of the year after the year in which it received the notice. The bill authorizes the department to grant a school district a one-year waiver of that requirement under certain conditions and establishes a timeline, procedures, and the conditions for requesting and granting such a waiver. The bill requires the department, not later than December 31 of each even-numbered year, to provide to the legislature by e-mail a report that identifies each affected school that was notified by the department and indicates whether the district provided or arranged for the provision of such a program or failed to do so without a waiver, identifies program funding sources, and identifies the total amount of any profit made or loss incurred through the summer nutrition program. The bill requires the department to post and maintain the most recent report on its Internet website.

Senate Bill 89 amends the Human Resources Code to repeal provisions relating to the summer food service program.

**Senate Bill 226**  
**Effective:** 6-17-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Smith, Todd

Under previous law, a school district was required to compile the results of the annual physical fitness assessment administered to students enrolled in grades 3 through 12 and provide the summary result, aggregated by grade level and any other category identified by commissioner rule, to the Texas Education Agency. Senate Bill 226 amends the Education Code to instead require a school district to provide the results of individual student performance on the physical fitness assessment to the agency. The bill expands the prohibition against including the names of individual students or teachers in the reported results to include prohibiting the results of individual student performance from containing a student's social security number or date of birth.

**Senate Bill 391**  
**Effective:** 9-1-11

**Senate Author:** Patrick  
**House Sponsor:** Eissler

Senate Bill 391 amends the Education Code to require a textbook publisher to provide a school district an electronic sample of an adopted textbook on the school district's request and also to provide an electronic sample to be maintained at each regional education service center.



The bill requires the notice published by the State Board of Education 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 such a textbook and is prohibited from submitting a print sample copy for these purposes.

**Senate Bill 736****Effective:** 6-17-11**Senate Author:** Hinojosa**House Sponsor:** Dukes et al.

Senate Bill 736 amends the Education Code to include local domestic violence programs among the groups from which a school district's board of trustees is authorized to appoint one or more persons to serve on the district's local school health advisory council.

**Senate Bill 738****Effective:** 6-17-11**Senate Author:** Shapiro**House Sponsor:** Villarreal

Senate Bill 738 amends the Education Code to require the commissioner of education to order the repurposing, alternative management, or closure of a campus that is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted if the commissioner is presented a written petition signed by the parents of a majority of the students enrolled at a campus requesting the specific action. The bill authorizes the commissioner to order a specific action requested by the board of trustees of the school district in which the campus is located that is not the action requested by the parents if the board presents the commissioner with a written request for that action and an explanation of the basis for the board's request. The petition or request must be presented in the time and manner specified by commissioner rule. The bill's provisions apply beginning with the 2011-2012 school year.

**Senate Bill 764****Effective:** 6-17-11**Senate Author:** Williams**House Sponsor:** Ritter

Senate Bill 764 amends the Education Code to prohibit 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, including a motel. The bill prohibits the board from entering into a lease, contract, or other agreement that obligates the board to engage in such a prohibited activity or obligates the use of district employees or resources in a prohibited manner.

**Senate Bill 778****Effective:** 9-1-11**Senate Author:** Williams et al.**House Sponsor:** Huberty

Senate Bill 778 amends the Education Code to require a school district's district-level and campus-level planning and decision-making committees to include, if practicable, at least one professional staff representative with the primary responsibility for educating students with disabilities.

**Senate Bill 866****Effective:** 6-17-11**Senate Author:** Deuell et al.**House Sponsor:** Jackson

Senate Bill 866 amends the Education Code to require that any minimum academic qualifications for a certificate issued by the State Board for Educator Certification requiring 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 and to set out requirements for the development of such instruction. This requirement does not apply to a person who obtains a certificate through an alternative certification program. The bill requires



the 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 such training to be offered in an online course. The bill prohibits a student determined to have dyslexia or accommodated because of dyslexia from being retested or reassessed by a school district or institution of higher education, as applicable, for the purpose of reassessing the student's need for accommodations until the district or institution reevaluates the information obtained from previous testing or assessments of the student.

Senate Bill 866 requires the Texas Education Agency to establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia and sets out plan requirements. The bill requires the agency to provide the plan and information about the availability and benefits of the effective technologies to school districts.

**Senate Bill 966**

**Effective:** 6-17-11

**Senate Author:** Uresti et al.

**House Sponsor:** Pickett

Senate Bill 966 amends the Education Code to expand the conditions that qualify a veteran to be issued a high school diploma by including an honorably discharged member of the armed forces of the United States who was scheduled to graduate from high school after 1989 and left school after completing the sixth or a higher grade, before graduating from high school, to serve in the Persian Gulf War, the Iraq War, or the war in Afghanistan or any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the federal War Powers Resolution of 1973.

**Senate Bill 1094**

**Effective:** 6-17-11

**Senate Author:** Rodriguez

**House Sponsor:** Strama

Senate Bill 1094 amends the Education Code to require the State Board of Education by rule to develop and deliver high school equivalency examinations and provide for administration of the examinations online. The bill 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. The bill's provisions apply beginning with the 2011-2012 school year.

**Senate Bill 1484**

**Effective:** 6-17-11

**Senate Author:** Shapiro

**House Sponsor:** Strama

Senate Bill 1484 amends the Education Code to clarify the applicability of statutory provisions governing distinction designations for public school districts and public school campuses under the public school accountability system to open-enrollment charter schools by specifying that, for purposes of such provisions, 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. The bill prohibits an open-enrollment charter school from being awarded a distinction designation by the commissioner of education if the charter school is evaluated under alternative education accountability procedures adopted by the commissioner.

**Senate Bill 1543**

**Effective:** 6-17-11

**Senate Author:** Wentworth

**House Sponsor:** Larson

Senate Bill 1543 amends the Government Code to authorize an independent school district with an average daily attendance of 50,000 or more 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 at not lower than “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 if the district amends its investment policy, adopts procedures for monitoring and liquidating such investments, and identifies the funds eligible to be invested in corporate bonds. The bill limits the amount that a district is authorized to invest in corporate bonds and requires the investment officer of a district to sell corporate bonds in which the district has invested its funds within a specified period after an action by a nationally recognized investment rating firm that would adversely affect the district’s investment in such bonds. Corporate bonds are not an eligible investment for a public funds investment pool.

**Senate Bill 1557**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Strama

Senate Bill 1557 amends the Education Code to establish the Texas High Performance Schools 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. The bill authorizes the commissioner to select up to 20 participants for the consortium from among the school districts and open-enrollment charter schools that apply and establishes eligibility criteria for participation and an application process that requires submission of a detailed plan to both support improved instruction of and learning by students and provide evidence of the accurate assessment of the quality of learning on campuses.

Senate Bill 1557 requires the commissioner, 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 specified principles for a next generation of higher performing schools, and 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. The bill authorizes the commissioner to charge a participant a fee to cover the consortium’s administrative costs.

Senate Bill 1557 requires the commissioner, with the aid of the consortium participants, to submit two reports, with deadlines of December 1, 2012, and December 1, 2014, respectively, concerning the consortium’s performance and progress to the governor and the legislature and specifies certain content to be included in the 2012 report.

**Senate Bill 1610**  
**Effective:** 9-1-11

**Senate Author:** Lucio et al.  
**House Sponsor:** Hamilton

Previous law required a school district to comply with the requirement to equip certain buses with a three-point seat belt for each passenger to the extent that the Texas Education Agency paid the district for expenses incurred in complying with the requirement. Senate Bill 1610 amends the Transportation Code to require a school district to comply with the requirement only to the extent that the legislature has appropriated money to reimburse the district for the expenses.

## **Educators and Employees**

**House Bill 398**  
**Effective:** 6-17-11

**House Author:** Jackson  
**Senate Sponsor:** Hegar

Previous law prohibited an entity contracting or subcontracting with a school district, open-enrollment charter school, or shared services arrangement from permitting an employee to provide services at a school that would entail direct contact with students if that employee had

been convicted of a felony or misdemeanor offense that would prevent a person from obtaining educator certification. House Bill 398 amends the Education Code to prohibit such an entity from permitting an employee to provide such services if that employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed by a school district.

**House Bill 1254**  
**Effective:** 5-28-11

**House Author:** Pickett et al.  
**Senate Sponsor:** Rodriguez

House Bill 1254 adds a temporary provision to the Education Code to require the 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 consolidation of school district employment of peace officers and security personnel and provide a joint report to the commissioner of education based on those discussions.

**House Bill 1334**  
**Effective:** 6-17-11

**House Author:** Allen  
**Senate Sponsor:** Davis

House Bill 1334 amends the Education Code to establish that, for purposes of provisions relating to the voiding of a school district employee contract for the employee's failure to obtain or maintain certification from the State Board for Educator Certification, a certificate or permit issued by the board is not considered to have expired if the employee holding the certificate has completed the requirements for renewal of the certificate or permit, the employee submitted the request for renewal before the expiration date, and the date the certificate or permit would have expired is before the date the board takes action to approve the renewal of the certificate or permit.

**House Bill 1550**  
**Effective:** 6-17-11

**House Author:** Aycock  
**Senate Sponsor:** Seliger

House Bill 1550 amends the Government Code to include an officer or employee of an open-enrollment charter school who is engaged in official business among the persons authorized to participate in state travel service contracts under the State Travel Management Program in the office of the comptroller of public accounts.

**House Bill 1610**  
**Effective:** 9-1-11

**House Author:** Gonzales, Larry et al.  
**Senate Sponsor:** Patrick

House Bill 1610 amends the Education Code to require a school district or open enrollment charter school that receives notice from the State Board for Educator Certification of the revocation of a teaching certificate held by a person employed by the district or school under a probationary, continuing, or term contract for conviction of a felony offense against a person under 18 years of age or an offense requiring registration as a sex offender to suspend the person without pay, provide the person with written notice that the person's contract is void, and terminate the person's employment as soon as practicable. The bill also authorizes a district or charter school to take such action if the district or school becomes aware that a contract employee has been convicted of or received deferred adjudication for a felony offense other than an offense described above. The bill requires a district superintendent or director to complete an investigation of an educator that is based on reasonable cause to believe the educator may have abused or otherwise committed an unlawful act with a student or minor, even if the educator resigns before completion of the investigation.

House Bill 1610 amends the Penal Code to expand the conditions that constitute the offense of improper relationship between an educator and a student for an employee of a public or private primary or secondary school who holds an educator certificate or is required to be licensed

by a state agency to include engaging in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is enrolled in a public primary or secondary school in the same school district as the school at which the employee works or is a student participant in an educational activity sponsored by a school district or a public or private primary or secondary school in which students are the primary participants and the employee provides education services to such participants. The bill establishes an affirmative defense to the prosecution of an improper relationship between an educator and a student if the actor was not 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 the school.

**House Bill 1682**  
**Effective:** 6-17-11

**House Author:** Weber et al.  
**Senate Sponsor:** Jackson

House Bill 1682 amends the Education Code to prohibit a school district board of trustees or school district employee from directly or indirectly requiring or coercing any district employee to make or refrain from making a contribution to a charitable organization or in response to a fund-raiser or to attend or refrain from attending a meeting called for the purpose of soliciting charitable contributions.

**House Bill 2380**  
**Effective:** 6-17-11

**House Author:** Shelton et al.  
**Senate Sponsor:** Shapiro

Current law requires a person who is employed by a school district as a teacher for the first time or who has not been employed by the district for two consecutive school years to be employed under a probationary contract, rather than a continuing contract or term contract, and authorizes a person's employment under a probationary contract under certain conditions. House Bill 2380 amends the Education Code to authorize the employment under a probationary contract of a person who voluntarily accepts an assignment in a new professional capacity that requires a class of educator certificate that is different from the class of certificate held by the person in the professional capacity in which the person was previously employed. If such a person is returned by the school district to a professional capacity in which the person was previously employed by the district, the bill entitles that person to employment in the original professional capacity under the same contractual status as held by the person during the previous employment in that capacity.

**House Bill 2971**  
**Effective:** 6-17-11

**House Author:** Smith, Todd  
**Senate Sponsor:** Davis

House Bill 2971 amends the Education Code to extend confidentiality to a document evaluating the performance of a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified as an educator. The bill authorizes an open-enrollment charter school, at the request of a school district or open-enrollment charter school at which a teacher or administrator has applied for employment, to give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

**Senate Bill 54**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Eissler

Senate Bill 54 amends the Education Code to require, as a condition of eligibility for a person to be issued a certificate to teach students with visual impairments, that the person complete either all course work required for that certification in an approved educator preparation program or an approved alternative educator certification program, perform satisfactorily on each examination

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for certification to teach students with visual impairments, and satisfy any other requirements prescribed by the State Board for Educator Certification.

**Senate Bill 155**  
**Effective:** 9-1-11

**Senate Author:** Huffman  
**House Sponsor:** Zerwas

Previous law entitled a school district employee whose resignation is effective after the last day of an instructional year to participate or be enrolled in the district's uniform group coverage plan or the district's group health coverage, as applicable, through the first anniversary of the date such coverage was first made available to district employees for the last instructional year in which the employee was employed by the district. Senate Bill 155 amends the Education Code to specify that such an employee is entitled to participate or be enrolled through the earlier of that date or the last calendar day before the first day of the instructional year immediately following the last instructional year in which the employee was employed by the district.

**Senate Bill 1042**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Jackson

Previous law prohibited an entity contracting or subcontracting with a school district, open-enrollment charter school, or shared services arrangement from permitting an employee to provide services at a school that would entail direct contact with students if that employee had been convicted of a felony or misdemeanor offense that would prevent a person from obtaining educator certification. Senate Bill 1042 amends the Education Code to prohibit such an entity from permitting an employee to provide such services if that employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed by a school district.

**Senate Bill 1383**  
**Effective:** 6-17-11

**Senate Author:** Shapiro et al.  
**House Sponsor:** Eissler

Senate Bill 1383 amends the Education Code to require the commissioner of education by rule to establish and administer a comprehensive appraisal and professional development system for public school principals and authorizes the commissioner to establish a consortium of nationally recognized experts on educational leadership and policy to assist the commissioner in the development of such a system and to make recommendations regarding the training, appraisal, professional development, and compensation of principals. The bill requires the commissioner to establish school leadership standards and a set of indicators of successful school leadership to align with such training, appraisal, and professional development and requires each school district to appraise each principal annually using either the appraisal system and the leadership standards and indicators developed by the commissioner or an appraisal process and performance criteria developed by the district in consultation with the district's district-level and campus-level planning and decision-making committees.

The bill requires the commissioner, not later than December 1 of 2012 and 2014, to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and chair of each standing legislative committee with primary jurisdiction over public education on any action taken regarding the appraisal and professional development system or any recommendations for legislative action regarding school principal training, appraisal, professional development, or compensation.



## Specialized Curricula and Programs

### House Bill 34

**Effective:** 6-17-11

**House Author:** Branch et al.

**Senate Sponsor:** Shapiro et al.

House Bill 34 amends the Education Code to include instruction in methods of paying for postsecondary education and training in the personal financial literacy instruction required by the Texas essential knowledge and skills in the public high school curriculum. The bill requires each school district and each open-enrollment charter school that offers a high school program, beginning with the 2013-2014 school year, to provide to a student such instruction in personal financial literacy in any course meeting the requirements for an economics credit, using materials approved by the State Board of Education, and to ensure that a district or charter school student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit receives the required personal financial literacy instruction. The bill requires the board to identify the applicable essential knowledge and skills of personal financial literacy not later than January 31, 2012, and to approve materials that provide for such instruction not later than August 31, 2012.

### House Bill 692

**Effective:** 6-17-11

**House Author:** Farias

**Senate Sponsor:** Van de Putte

House Bill 692 amends the Education Code to require the State Board of Education, in adopting rules regarding the curriculum requirements for the minimum, recommended, and advanced high school programs, to allow a student who is unable to participate in physical activity because of disability or illness to substitute one credit in English language arts, mathematics, science, or social studies or one academic elective credit for the required physical education credit. The bill prohibits 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 the board's rules to provide for the determination regarding a student's ability to participate in physical activity to be made by the student's admission, review, and dismissal committee, the committee established for the student under the federal Rehabilitation Act of 1973, or a committee established by the district of persons with appropriate knowledge regarding the student, as applicable.

### House Bill 1335

**Effective:** 6-17-11

**House Author:** Allen et al.

**Senate Sponsor:** Van de Putte

House Bill 1335 amends the Education Code to include in the Texas Education Agency's statewide plan for delivery of services to public school students with disabilities procedures designed to ensure that each school district develops a process for a teacher who instructs a student with a disability in a regular classroom setting to request a review of the student's individualized special education program that provides for a timely district response to the teacher's request and for notification to the student's parent or legal guardian of that response.

### House Bill 2247

**Effective:** 6-17-11

**House Author:** King, Phil et al.

**Senate Sponsor:** Gallegos

House Bill 2247 amends the Government Code to entitle the adjutant general's department, for each student enrolled in the Texas ChalleNGe Academy, to allotments from the Foundation School Program as if the academy were a school district without a tier one local share. The bill requires the department to contract with an appropriate school district for the provision of educational services for students enrolled in the academy and makes the school district



with which the department contracts responsible for ensuring compliance with any applicable regulatory requirements imposed under the Education Code and enforced by the commissioner of education and the Texas Education Agency.

**Senate Bill 149**

**Effective:** See below

**Senate Author:** West

**House Sponsor:** Castro

Senate Bill 149 amends the Education Code, effective June 17, 2011, to authorize the commissioner of education and the Texas Higher Education Coordinating Board, respectively, to adopt rules as necessary concerning the duties of a school district and a public institution of higher education with respect to a school district program under which district students may earn college credit while in high school. Effective September 1, 2011, the bill temporarily removes school district reporting requirements relating to the college credit earned by district students participating in such a program and instead requires each district to report annually to the Texas Education Agency the number of district students who have participated in the college credit program and the courses in which those students have earned high school credit under the program. Effective September 1, 2013, the bill requires the commissioner and coordinating board to share data as necessary to enable districts to comply with the reporting requirement, which reverts to the reporting requirement under previous law, and requires the coordinating board to collect student course credit data from public institutions of higher education as necessary for sharing data with school districts for purposes of the reporting requirement.

**Senate Bill 290**

**Effective:** 6-17-11

**Senate Author:** Watson et al.

**House Sponsor:** Hernandez Luna

Senate Bill 290 amends the Education Code to require the Texas essential knowledge and skills to require instruction in personal financial literacy in mathematics instruction in kindergarten through grade eight. The bill requires the commissioner of education to adopt a list of instructional material for use as part of the foundation curriculum for personal financial literacy in kindergarten through grade eight. The bill requires the State Board of Education to review and adopt mathematics textbooks that satisfy the requirements for instruction in personal financial literacy on the next scheduled review and adoption cycle for mathematics textbooks after the bill's effective date.

**Senate Bill 1410**

**Effective:** 9-1-11

**Senate Author:** Duncan

**House Sponsor:** Patrick

Senate Bill 1410 amends the Education Code to require the Texas Education Agency (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 and to report the accurate number of tech-prep program students to the TEA and the Texas Higher Education Coordinating Board. The bill requires the coordinating board's evaluation of each tech-prep consortium 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 the coordinating board; an identification of any concerns the coordinating board has regarding the consortium's performance; and recommendations for improvement by the consortium in the next year. The bill removes the requirements that the coordinating board coordinate with tech-prep consortia in developing and implementing the statewide evaluation system, that the evaluation of each consortium be based on the success of the consortium's tech-prep program and other criteria, and that the evaluation system include standards that a tech-prep consortium is expected to meet in administering the consortium's duties. The bill requires the coordinating board to evaluate each 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 coordinating board rule. The bill changes from October 1 of each even-numbered year to November 1 of each year the deadline for the coordinating board's report to each tech-prep consortium on the results of the evaluation and revises the content to be included in the report.

**Senate Bill 1619****Effective:** 6-17-11**Senate Author:** Duncan**House Sponsor:** Aycock

Senate Bill 1619 amends the Education Code to postpone from September 1, 2011, to September 1, 2013, the expiration date of the provision exempting a school district from being required to pay a district student's tuition or other associated costs for taking a course for college credit under a college credit program. The bill requires time during which a student attends a course provided under a college credit program by a public institution of higher education to 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 Foundation School Program purposes.

**Senate Bill 1620****Effective:** 6-17-11**Senate Author:** Duncan et al.**House Sponsor:** Aycock

Senate Bill 1620 amends the Education Code to require the State Board of Education (SBOE) to establish a process under which an applied science, technology, engineering, or mathematics (STEM) course may be reviewed and approved to satisfy the mathematics and science curriculum requirements for the recommended high school program through substitution of the applied STEM course for a specific mathematics or science course otherwise required under the recommended high school program and completed during the student's fourth year of mathematics or science course work. The bill limits SBOE approval of applied STEM courses to courses that may be substituted for a mathematics or science course taken after successful completion of or concurrently with certain specified mathematics or science courses and sets out requirements for applied STEM courses to be approved for such purposes. The bill makes a student eligible to enroll in an approved applied STEM course that is part of a coherent sequence of career and technology courses for the purpose of satisfying curriculum requirements only if the student has completed the prerequisite course work, if any, for the applied STEM course.

The bill requires the commissioner of education to implement the required review and approval process not later than September 1, 2012; requires the State Board for Educator Certification to specify certain requirements that a person must satisfy to obtain a certificate to teach a high school level applied STEM course; and requires the Texas Higher Education Coordinating Board to work with institutions of higher education to ensure that credit for an applied STEM course may be applied to relevant degree programs. The bill also requires the coordinating board to include applied STEM courses in its review of courses considered for approval for offer by a public junior college or public technical institute.

**Senate Bill 1788****Effective:** 6-17-11**Senate Author:** Patrick**House Sponsor:** Huberty

Senate Bill 1788 amends the Education Code to require the Texas Education Agency, not later than December 1, 2011, to develop a model form for use in developing an individualized special education program for a student with a disability. The bill sets out requirements for the information contained in the form, requires the agency to post the form on the agency's Internet website, and authorizes a school district to use the form to comply with the requirements for an individualized education program under federal law. The bill limits the information that

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may be required in the written statement of a student's individualized education program to the information included in the model form.

Senate Bill 1788 requires the appropriate state transition planning for a student who is enrolled in a special education program to begin not later than when the student reaches 14 years of age.

## Student Health and Safety

**House Bill 359**  
**Effective:** 9-1-11

**House Author:** Allen et al.  
**Senate Sponsor:** Lucio

House Bill 359 amends the Education Code to authorize a public school educator, if the school district's board of trustees adopts a policy under which corporal punishment is permitted as a method of student discipline, to use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. Such a statement must be provided annually in the manner established by the board and may be revoked at any time by such person by means of a written, signed revocation submitted to the board of trustees.

House Bill 359 makes restrictions on the use of confinement, restraint, and seclusion of students as a discipline management practice or a behavior management technique applicable to a peace officer who 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 district and a local law enforcement agency and requires a school district to report electronically to the Texas Education Agency, in accordance with commissioner of education rule, on the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

House Bill 359 exempts a student in the sixth grade or a lower grade level from the application of provisions making it a Class C misdemeanor to disrupt a class or to disrupt the transportation of students and amends the Penal Code to provide a similar exception for a student at those grade levels from the application of provisions making it a Class C misdemeanor to engage in certain behavior that constitutes the offense of disorderly conduct.

**House Bill 675**  
**Effective:** 9-1-11

**House Author:** Lucio III et al.  
**Senate Sponsor:** Lucio

House Bill 675 amends the Education Code to prohibit a school district from using a football helmet that is 16 years old or older in the district's football program. The bill 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 and to maintain and make available documentation of the age of a helmet and the date of its reconditioning. The bill authorizes the University Interscholastic League to adopt rules necessary to implement these football helmet safety requirements. The bill makes its provisions applicable beginning with the 2012-2013 school year.

**House Bill 742**  
**Effective:** 6-17-11

**House Author:** Hunter  
**Senate Sponsor:** Hinojosa

House Bill 742 amends the Education Code to require a school district, on enrollment of a child in a public school, to request that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in

the judgment of the parent or other person with legal control, 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. The bill requires a district to maintain the confidentiality of such information, authorizes its disclosure to appropriate district personnel only to the extent consistent with district policy and applicable federal law, and sets out provisions relating to the documentation of such information in a child's student and health records.

**House Bill 1386**  
**Effective:** 6-17-11

**House Author:** Coleman et al.  
**Senate Sponsor:** Ellis

House Bill 1386 amends the Health and Safety Code to require the Department of State Health Services (DSHS), in coordination with the Texas Education Agency, 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. A school district is authorized to select a program or programs from the list that are appropriate for implementation in the district. DSHS is required to submit a report to the legislature, not later than January 1, 2013, relating to the development of the list and the implementation of programs in participating school districts. The bill sets out required program components and specifies issues that must be considered in developing the list. The board of trustees of a school district is authorized to adopt a policy and any necessary procedures concerning early mental health intervention and suicide prevention that meet certain specified criteria. The policy and procedures must be included in the annual student handbook and the district improvement plan.

House Bill 1386 amends the Education Code to prohibit 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 to authorize a person to perform specific services within that profession for a school district only if the person holds the appropriate credential. As long as a person employed by a school district before September 1, 2011, to perform marriage and family therapy is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy within that district. The bill requires the State Board for Educator Certification to propose rules for the administration of provisions relating to the employment of a marriage and family therapist by a school district.

**House Bill 1942**  
**Effective:** 6-17-11

**House Author:** Patrick et al.  
**Senate Sponsor:** Van de Putte et al.

House Bill 1942 amends the Education Code to authorize a school district board of trustees to transfer a student who engaged in bullying to another classroom at the campus to which the victim was assigned at the time the bullying occurred or, in consultation with a parent or other person authorized to act on behalf of the student who engaged in bullying, to a district campus other than the campus to which the victim was assigned at the time the bullying occurred. The bill requires each school district board of trustees to adopt a policy on bullying that prohibits the bullying of a student and the retaliation against any person who in good faith provides information concerning an incident of bullying; establishes procedures relating to parental notification; establishes procedures for reporting and investigating a reported incident of bullying and determining whether the reported incident of bullying occurred; specifies a student's appropriate responses to bullying; sets out counseling options for a student involved in bullying, whether as victim, witness, or perpetrator; and addresses disciplinary matters relating to a student who uses reasonable self-defense in response to bullying and to a student with disabilities.

The bill specifies the behaviors that constitute bullying and requires the State Board of Education to adopt for the health curriculum essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense, and resolution of and intervention in bullying and harassment. The bill adds training in preventing, identifying, responding to, and reporting incidents of bullying to the training authorized for inclusion in the staff development provided by a school district.

**House Bill 2038**  
**Effective:** 6-17-11

**House Author:** Price et al.  
**Senate Sponsor:** Deuell et al.

House Bill 2038 amends the Education Code to enact Natasha's Law, requiring the governing body of each school district and open-enrollment charter school with students who participate in a sponsored or sanctioned interscholastic athletic activity, including practice and competition, to appoint or approve a concussion oversight team that 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. The bill 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 legal authority to make medical decisions for the student have signed a form acknowledging certain concussion information, requires a student to be removed from an interscholastic athletics practice or competition immediately 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 the practice or competition, and sets out conditions that must be met in order for such a student to be permitted to practice or compete again. The bill requires supervision of an athletic trainer or other person responsible for compliance with the return-to-play protocol and prohibits a coach of an interscholastic athletics team from authorizing a student's return to play or being the person who has supervisory responsibilities regarding compliance with the protocol.

House Bill 2038 requires the University Interscholastic League to approve for coaches of interscholastic athletic activities training courses in the subject matter of concussions, requires the Department of State Health Services Advisory Board of Athletic Trainers to approve for athletic trainers training courses in that subject matter, and requires both entities to maintain an updated list of individuals and organizations authorized to provide such training. The bill sets out training course requirements for coaches and for licensed health care professionals who serve as members of a concussion oversight team and 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. The bill sets out provisions relating to immunity from liability of school districts, open-enrollment charter schools, district or charter school officers or employees, and members of a concussion oversight team and authorizes the commissioner of education to adopt rules as necessary to implement provisions relating to the prevention, treatment, and oversight of concussions affecting student athletes.

**Senate Bill 27**  
**Effective:** 6-17-11

**Senate Author:** Zaffirini et al.  
**House Sponsor:** Branch et al.

Senate Bill 27 amends the Education Code to require the board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school, not later than August 1, 2012, 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 in consultation with an ad hoc committee appointed by the commissioner as prescribed in the bill. The bill requires the commissioner to appoint the ad hoc



committee not later than December 1, 2011, and to develop those guidelines not later than May 1, 2012; requires a school district or charter school that implemented such a policy before the development of the guidelines to review the policy and revise the policy as necessary to ensure that the policy is consistent with the guidelines; and requires the Texas Education Agency to post the guidelines on the agency's website with any other information relating to students with special health needs.

**Senate Bill 471****Effective:** 6-17-11**Senate Author:** West et al.**House Sponsor:** Parker

Senate Bill 471 amends the Education Code to require a school district's policy addressing sexual abuse of children to also address maltreatment of children and to require each open-enrollment charter school to adopt and implement such a policy. The bill requires the methods addressed by the policy for increasing staff, student, and parent awareness of related issues to include training concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children. Such training must be provided to new district and charter school educators and professional staff as part of new employee orientation, may be provided annually to any district or charter school staff member, and may be included in staff development. The training must address risk factors and warning signs of sexual abuse or other maltreatment, internal procedures for seeking assistance for an at-risk child, techniques for reducing that risk, and community organizations available as resources for such training. The bill requires a school district or charter school that does not have sufficient resources to provide the required training to work in conjunction with a community organization to provide that training at no cost to the district or school. The bill requires each school district's district improvement plan to include provisions for the policy on sexual abuse and other maltreatment of children.

Senate Bill 471 amends the Human Resources Code to require 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 of suspected occurrences of sexual abuse and other maltreatment of children to the Department of Family and Protective Services (DFPS) or another appropriate entity. The bill requires the training to be provided for at least an hour annually and include training concerning risk factors and warning signs of sexual abuse or other maltreatment, internal procedures for seeking assistance for an at-risk child, techniques for reducing that risk, and community organizations available as resources for such training. The bill authorizes a child-placing agency or day-care center that does not have sufficient resources to provide the required training to contact a DFPS licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center. The bill requires each child-placing agency or day-care center to adopt and implement a policy addressing the sexual abuse and other maltreatment of children that addresses methods for increasing agency and center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children and actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.



## Public Education

**The summaries for the following bills are in the listed chapters:**

House Bill 942 - Civil Remedies and Procedures

House Bill 3708 - Higher Education

Senate Bill 1 (1st C.S.) - Appropriations and State Finance

Senate Bill 49 - Juvenile Justice

Senate Bill 199 - Agriculture

Senate Bill 419 - Higher Education

Senate Bill 501 - Human Services

Senate Bill 1106 - Juvenile Justice

Senate Bill 1618 - State Government

## Public Officials and Employees

This chapter covers legislation relating to elected and appointed officials, judges and court personnel, and other public employees, including qualifications, rights, benefits, compensation, standards of conduct, and personal financial disclosure, and legislation relating to lobbying public officials and employees. This chapter includes legislation on public safety personnel, except legislation on the qualifications, training, and duties of peace officers is in the **Law Enforcement** chapter. Legislation on public pension systems is in the **Public Retirement Systems** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 46**

**Effective:** 5-19-11

**House Author:** Menendez

**Senate Sponsor:** Hinojosa

House Bill 46 amends the Government Code to include among state employees who are entitled to compensatory time off for working on a national or state holiday that falls on a Saturday or Sunday a state employee who is employed by the Parks and Wildlife Department to perform communications and dispatch services to assist law enforcement officers commissioned by the Parks and Wildlife Commission in performing law enforcement duties.

#### **House Bill 988**

**Effective:** 9-1-11

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Whitmire

House Bill 988 amends the Government Code to create an exception to the requirement that compensatory time off earned by certain state employees be taken during the 12-month period following the end of the workweek in which the time was accrued by requiring compensatory time off earned by a correctional officer employed by the Texas Department of Criminal Justice to be taken during the 24-month period following the end of the workweek in which the time was accrued.

#### **House Bill 3409**

**Effective:** 6-17-11

**House Author:** Kolkhorst

**Senate Sponsor:** Williams

House Bill 3409 amends the Government Code to require a registered lobbyist, during a regular legislative session, to file with the Texas Ethics Commission an amended registration if there is a change in the person who reimburses, retains, or employs the registrant and on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action or if there is a change in the subject matter about which the registrant has communicated directly with such a member. The bill sets out requirements for such an amended registration, establishes a deadline by which an amended registration is required to be filed, and requires the commission to post an amended registration on its website. The bill clarifies that certain transportation, lodging, food and beverage, and entertainment expenditures for a state senator, a state representative, an elected or appointed state officer, a legislative agency employee, an executive agency employee, and the immediate family of a member of the legislative or executive branch are included among expenditures required to be reported as part of an activities report.

**Senate Bill 29**

**Effective:** See below

**Senate Author:** Zaffirini

**House Sponsor:** Branch

Senate Bill 29 amends the Insurance Code to make an individual who is not eligible to participate in the group benefits program under the Texas Employees Group Benefits Act eligible to participate in that program if the individual holds either a postdoctoral fellowship or one or more graduate student fellowships awarded to the individual on a competitive basis that are valued at not less than \$10,000 per year and the individual is currently receiving a stipend from an applicable fellowship. The bill also makes a postdoctoral fellow or graduate student at a component institution of The University of Texas System or of The Texas A&M University System who is not otherwise eligible to participate in the uniform program under the State University Employees Uniform Insurance Benefits Act eligible to participate in that program under the same conditions. The bill establishes contribution requirements for such eligible individuals and entitles an eligible individual to secure group coverage for a dependent, subject to certain exceptions in the case of group benefits program coverage under the Texas Employees Group Benefits Act. The bill requires an institution of higher education to determine which individuals are eligible to participate in a program under the bill's provisions and to notify each eligible individual of the individual's eligibility to participate in the program at the time of initial eligibility. The bill repeals a superseded provision making a postdoctoral fellow at a component institution of The University of Texas System or of The Texas A&M University System eligible to participate in the uniform program. That repeal takes effect January 1, 2012; all other provisions take effect September 1, 2011.

**Senate Bill 1269**

**Effective:** 9-1-11

**Senate Author:** Wentworth

**House Sponsor:** Branch

Senate Bill 1269 amends the Penal Code to exclude transportation, lodging, and meals accepted by a public servant in connection with a conference or similar event in which the public servant renders services from being considered political contributions for purposes of the prohibition against a public servant soliciting, accepting, or agreeing to accept an honorarium in consideration for services requested only because of the public servant's official position or duties. The bill exempts such transportation, lodging, and meals from provisions governing gifts offered to a public servant.

## **Public Safety Personnel**

**House Bill 1057**

**Effective:** 6-17-11

**House Author:** Anchia

**Senate Sponsor:** West

House Bill 1057 amends the Local Government Code to authorize a firefighter who is a member of the Dallas Fire Fighters Association, the Dallas Black Fire Fighters Association, or the Dallas Hispanic Firefighters Association to donate up to one hour of accumulated leave time for each calendar quarter to the business leave time account of the organization and sets out related provisions. The bill adds the Black Police Association of Greater Dallas to the list of police employee organizations authorized to participate in a business leave time program.

**House Bill 1163**

**Effective:** 6-17-11

**House Author:** Keffer

**Senate Sponsor:** Hegar

In 2009, the 81st Texas Legislature passed two bills, each separately amending the same Education Code provision relating to a tuition and fee exemption for firefighters enrolled in fire

science courses at an institution of higher education. One bill extended the existing exemption for a paid firefighter enrolled in one or more such fire science courses to a volunteer firefighter who met certain certification criteria while the other bill created a new tuition and fee exemption for a peace officer enrolled in a criminal justice or law enforcement-related degree program at an institution of higher education. House Bill 1163 reenacts the amended Education Code statute extending the tuition and fee exemption to volunteer firefighters enrolled in fire science courses and adds a new statute section to incorporate the provision creating a tuition and fee exemption for peace officers enrolled in a criminal justice or law enforcement-related degree program.

**House Bill 1488**  
**Effective:** 6-17-11

**House Author:** Gutierrez  
**Senate Sponsor:** Van de Putte

House Bill 1488 amends the Local Government Code to authorize an entrance examination for a beginning position in a fire department in a municipality with certain characteristics to include testing instruments to be used in addition to the written examination in the establishment of the initial eligibility list.

**House Bill 2516**  
**Effective:** 6-17-11

**House Author:** Alvarado  
**Senate Sponsor:** Gallegos

House Bill 2516 amends a provision in the Local Government Code relating to the temporary suspension of a firefighter or police officer by the Fire Fighters' and Police Officers' Civil Service Commission in a municipality with a population of 1.5 million or more to prohibit such a suspension of a firefighter from exceeding 90 calendar days.

**Senate Bill 423**  
**Effective:** 5-12-11

**Senate Author:** Lucio et al.  
**House Sponsor:** Menendez

Senate Bill 423 amends provisions of the Government Code relating to health insurance coverage and financial assistance for eligible survivors of certain public servants killed in the line of duty. The bill authorizes eligible survivors whose claim for a financial assistance payment was denied or who otherwise did not receive payment on a claim because the individual's employing entity did not timely furnish proof of the individual's death to the board of trustees of the Employees Retirement System of Texas to furnish the proof of death and file a claim not later than September 30, 2011. The bill entitles the eligible survivor to receive the payment that would have been received had proof of death been timely furnished.

Senate Bill 423 also amends provisions entitling eligible survivors of certain law enforcement officers, firefighters, and other public officers killed in the line of duty to purchase or continue to purchase health insurance coverage. The bill extends that entitlement to eligible survivors of certain trainees, prohibits the denial of health insurance benefits to a survivor of an individual who would have been eligible for such benefits when alive on the ground that the survivor was enrolled in group health insurance with another employer as of the date of the individual's death, and entitles an eligible surviving dependent who is a minor child to health insurance coverage until a date later than the dependent's 18th birthday to the extent required by state or federal law. The bill provides a limited opportunity for an eligible survivor of an individual who died on or after September 1, 1993, 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 timely notify the individual's employing entity of the survivor's election to purchase or continue to purchase coverage, to apply for health insurance benefits or coverage not later than September 1, 2012.

**Senate Bill 545**  
**Effective:** 9-1-11

**Senate Author:** Seliger  
**House Sponsor:** Driver

Senate Bill 545 amends the Occupations Code to clarify the deadline by which the head of a law enforcement agency or the head's designee is required to submit an employment termination report to the Commission on Law Enforcement Officer Standards and Education and provide a copy of the report to the terminated person. The bill revises the procedures for contesting and correcting information in a termination report and authorizes the commission to assess an administrative penalty against an agency head who fails to make a correction to a report under certain circumstances. The bill expands the confidentiality of law enforcement officer employment record information and expands the employment records that are subject to subpoena in a judicial proceeding.

**The summaries for the following bills are in the listed chapters:**

House Bill 2549 - State Government  
House Bill 3788 - Local Government  
Senate Bill 543 - Probate and Guardianship  
Senate Bill 1737 - Military Forces and Veterans

# Public Retirement Systems

This chapter covers legislation on the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and other public retirement systems. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## Employees Retirement System

### **House Bill 1608**

**Effective:** 6-17-11

**House Author:** Strama

**Senate Sponsor:** Watson

House Bill 1608 amends the Government Code to authorize a person who receives an annuity from the Employees Retirement System of Texas (ERS) to authorize ERS to deduct an amount from the person's monthly annuity payment and contribute that amount to the state employee charitable campaign. The bill sets out requirements and authorizations for the administration of the program.

House Bill 1608 includes retired state employees receiving benefits from ERS, in addition to state employees, among the persons who must compose the state employee charitable campaign policy committee. The bill includes retired state employees receiving retirement benefits from ERS, in addition to state employees, among the persons who are authorized to compose a local state employee charitable campaign committee.

### **House Bill 2193**

**Effective:** 9-1-11

**House Author:** Truitt

**Senate Sponsor:** Duncan

House Bill 2193 amends the Government Code to authorize the Employees Retirement System of Texas board of trustees to establish an investment advisory committee to assist the board in its investment duties. The bill sets forth qualifications required for committee membership, makes a person ineligible for appointment to an investment advisory committee on the basis of certain conflict of interest provisions, requires the board of trustees to review the eligibility status of members serving on an investment advisory committee at least annually, and establishes grounds for a member's removal from such a committee. The bill requires the retirement system's executive director or a member of the advisory committee to notify the presiding officer of the board of trustees if the executive director or member has knowledge that a potential ground for removal exists.

### **Senate Bill 1664**

**Effective:** See below

**Senate Author:** Duncan

**House Sponsor:** Truitt et al.

Senate Bill 1664 amends provisions of the Government Code, Insurance Code, and Local Government Code relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas (ERS). The bill:

- prohibits any benefits, funds, or account balances payable on the death of a participant in any of the following plans or systems from being paid to a person convicted of or adjudicated as having caused that death: a deferred compensation plan for public employees, the Employees Retirement System of Texas, the Judicial Retirement System of Texas Plan One or Two, or the group benefits program under the Texas Employees Group Benefits Act; the bill provides for the payment of such benefits, funds, or balances as if the convicted person had predeceased the decedent;



## Public Retirement Systems

- requires the state employee charitable campaign policy committee to include retired state employees receiving ERS benefits in addition to current state employees and authorizes the inclusion of one or more such retired employees on a local state employee charitable campaign committee;
- beginning in 2016, changes the reporting interval for the ERS report providing to the comptroller of public accounts certain identification information of each member, retiree, and beneficiary from ERS records from an annual requirement to a requirement with a reporting interval of once every five years;
- changes the computation of the required contribution amount for a member of ERS claiming credit in the elected class or employee class for service not previously established to reflect, as part of the computation, the amount of the appropriate member contribution as provided by law rather than a fixed percentage of the monthly state salary paid to a person in the office for which credit is sought or for the person's service, as applicable, during the time for which the credit is sought;
- authorizes a person who receives an annuity from ERS to authorize ERS to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign and includes provisions governing the administration of such charitable deductions by the ERS board of trustees and the state employee charitable campaign policy committee;
- increases from 5 years to 10 years the minimum number of years of service credit that an ERS member who was not a member on the date hired, who was hired on or after September 1, 2009, and who has ERS service credit must have to be eligible to retire and receive a service retirement annuity under the rule of 80;
- revises the eligibility requirements for a bank or brokerage firm to lend ERS securities, with respect to the maintenance of the collateral required of any securities broker or dealer to whom the bank or firm lends such securities;
- transfers the portion of the consolidated court costs collected on conviction of an offense that previously was allocated by the comptroller of public accounts to the operator's and chauffeur's license account so that the funds are allocated instead to the law enforcement and custodial officer supplemental retirement fund;
- exempts an applicable member's contribution to ERS, if the state contribution to ERS or the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 6.5 percent or 0.5 percent, respectively, for the state fiscal year beginning September 1, 2011, from being required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium;
- increases from 25 years of age to 26 years of age the maximum age of eligibility for an unmarried child or ward to participate as a dependent in the state employees group benefits program;
- authorizes the ERS board of trustees to adopt rules that modify the coverage provided under the group benefits program of the Texas Employees Group Benefits Act by adding, deleting, or changing a provision of the program, including rules modifying eligibility and enrollment requirements and available program benefits;
- requires the ERS board of trustees to develop a plan for providing, under any health benefit plan provided under the group benefits program, tobacco cessation coverage for health benefit plan participants and to assess each participant who uses one or more tobacco products a tobacco user premium differential;

- requires the ERS board of trustees to assess each employer whose employees participate in the group benefits program an employer enrollment fee to be credited to the employees life, accident, and health insurance and benefits fund; and
- prohibits a state contribution from being made for or used to pay a tobacco user premium differential or from being made for coverages under the Texas Employees Group Benefits Act selected by an individual who receives a state contribution for coverages under a group benefits program provided by another state health plan.

Senate Bill 1664 takes effect September 1, 2011, except for the reallocation of the specified portion of the consolidated court costs, which takes effect September 1, 2013.

## Other Retirement Systems

**House Bill 159**  
**Effective:** 9-1-11

**House Author:** Raymond  
**Senate Sponsor:** Zaffirini

Current law requires the Texas Municipal Retirement System (TMRS) to discontinue and suspend annuity payments to a TMRS retiree who resumes employment with the retiree's previous employer and prohibits TMRS from making such annuity payments for any month during which the member remains employed by that same municipality. House Bill 159 amends the Government Code to create an exception to that loss of benefits by requiring such a person to receive a lump-sum payment in an amount equal to the sum of the service retirement annuity payments the person would have received had the payments not been discontinued and suspended during the return to employment if the person initially retired based on a bona fide termination of employment and resumed employment with the person's reemploying municipality at least eight years after the person's retirement.

**House Bill 3033**  
**Effective:** 6-17-11

**House Author:** Naishtat et al.  
**Senate Sponsor:** Watson

House Bill 3033 amends the law previously applicable to the retirement system in a municipality having a population within a specified population bracket, maintaining the law's applicability to that municipality's retirement system by updating the population bracket to specify a population of more than 760,000 and less than 860,000. The bill revises definitions relating to compensation to maintain compliance with provisions of the Internal Revenue Code of 1986 regarding an employee's election to participate in certain tax-qualified retirement plans.

House Bill 3033 establishes a new benefits tier for municipal employees hired on or after January 1, 2012, and enrolled in the retirement system as members of Group B; employees who are members of the system on or before December 31, 2011, or who return to full-time employment on or after January 1, 2012, and reinstate all of their prior membership credits, become enrollees as members of Group A. The bill sets the multiplier used to compute a member's retirement annuity at 3.0 percent for Group A members and at 2.7 for Group B members. The bill maintains the current normal retirement age for Group A members; sets the normal retirement age for Group B members at 62 years of age with 30 years of creditable service or 65 years of age with five years of creditable service; and makes a Group B member eligible for early retirement with a reduced benefit at 55 years of age with at least 10 years of creditable service. The bill provides for the assignment of a member who returns to work on a full-time basis to the group for which the member is qualified.

House Bill 3033 amends provisions relating to the reinstatement of membership service and the purchase of qualified military service under certain conditions and establishes procedures and conditions for the conversion of accrued sick leave to creditable service at retirement and

restrictions on the purchase of nonqualified permissive creditable service. Members who retired before October 1, 2011, and beneficiaries of members who died before that date continue to receive the same benefits to which they were entitled before that date together with any benefit increase authorized by statute.

House Bill 3033 authorizes a member selecting Option VI, when choosing from among the various life annuities available to a retiree, to elect to receive a lump-sum payment and either a reduced life annuity or one of several optional actuarially equivalent annuities available under Options I through V, with the annuity actuarially reduced as a result of the lump-sum payment. The bill also entitles the beneficiaries of a member, if a member dies while performing qualified military service, to specified additional benefits.

House Bill 3033 sets out provisions relating to the mandatory cost of living increases in maximum allowable annual benefits, the application of this increase to members who have terminated employment, and the continued eligibility for a retirement allowance of a member who retires after reaching normal retirement age and who continues or resumes employment in a position that requires participation in another retirement system of the municipality. The bill sets out provisions relating to the required suspension of the retirement allowance of retirees who resume employment under certain conditions and the reinstatement of the retirement allowance.

House Bill 3033 increases the rate of both member and employer contributions to the retirement system to eight percent of the member's base compensation, pay, or salary. The bill provides for a higher employer contribution agreed to by the employer and requires, rather than authorizes, each employer other than the city that contributes to the system to increase the contributions for the employer's respective employees by the same percentage, if applicable. The bill makes changes as to what an eligible rollover distribution does not include.

**Senate Bill 350**

**Effective:** 6-17-11

**Senate Author:** Williams

**House Sponsor:** Truitt

Senate Bill 350 amends the Government Code to restructure the fund obligations and accounts of the Texas Municipal Retirement System (TMRS). The bill removes the employees saving fund, municipality accumulation fund, and current service annuity reserve fund from the list of funds to which TMRS assets are required to be credited, consolidates those former fund obligations into the benefit accumulation fund, and requires TMRS to establish in a participating municipality's account in the benefit accumulation fund an individual account for each person who is a member of the system through employment in that municipality.

**Senate Bill 812**

**Effective:** 6-17-11

**Senate Author:** Zaffirini

**House Sponsor:** Raymond

Current law requires the Texas Municipal Retirement System (TMRS) to discontinue and suspend annuity payments to a TMRS retiree who resumes employment with the retiree's previous employer and prohibits TMRS from making such annuity payments for any month during which the member remains employed by that same municipality. Senate Bill 812 amends the Government Code to create an exception to that loss of benefits by requiring such a person to receive a lump-sum payment in an amount equal to the sum of the service retirement annuity payments the person would have received had the payments not been discontinued and suspended during the return to employment if the person initially retired based on a bona fide termination of employment and the person resumed employment with the person's reemploying municipality at least eight years after the effective date of the person's retirement.

**Senate Bill 1285**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Strama

Senate Bill 1285 amends the law governing a police officers retirement system in a municipality having a population of more than 750,000 and less than 850,000. Current law requires the city to contribute an amount equal to 19 percent of the basic hourly earnings of each member of the police officers retirement system employed by the city. The bill limits applicability of that requirement to pay periods before October 1, 2011; increases the city's contribution to 20 percent of the basic hourly earnings of each member for all periods after September 30, 2011, and before October 1, 2012; and increases the city's contribution to 21 percent for all periods after September 30, 2012, subject to additional amounts being contributed to fund additional liabilities incurred by the system as a result of its participation in the proportionate retirement program. The bill increases the required deposit rate for members from 6 percent to 13 percent of the basic hourly earnings of each member.

**Senate Bill 1286**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Rodriguez

Senate Bill 1286 amends the law governing a firefighters relief and retirement fund in a municipality having a population of more than 750,000 and less than 850,000. The bill increases the municipality's rate of contribution to the fund from 18.05 percent of the compensation of all members during that month to 19.05 percent for the period beginning on the first pay date following September 30, 2010, through the pay date immediately preceding September 30, 2011, and periodically increases the municipality's rate of contribution in one percent increments until the municipality's rate of contribution is set at 22.05 percent of the compensation of all members during that month. The bill also increases each firefighter's rate of contribution to the fund from 13.70 percent of the firefighter's compensation for the month to 15.70 percent for the pay dates of the municipality following September 30, 2010, through the pay date immediately preceding September 30, 2011, and subsequently increases the firefighter's rate of contribution by 0.5 percent each year until the firefighter's rate of contribution is set at 18.70 percent of the firefighter's monthly compensation.

## Teacher Retirement System

**House Bill 1061**  
**Effective:** 6-17-11

**House Author:** Otto  
**Senate Sponsor:** Duncan

House Bill 1061 amends the Government Code to extend from September 1, 2012, to September 1, 2019, the Teacher Retirement System of Texas (TRS) board of trustees' authority to buy and sell certain types of contracts, options, and financial instruments for the limited purpose of efficiently managing and reducing the risk of the overall investment portfolio. The bill prohibits the TRS board of trustees contracting for investment and management services to be performed on or after September 1, 2019, and limits the retirement system's investment in hedge funds before that date to not more than 10 percent of the value of TRS's total investment portfolio.

**House Bill 2120**  
**Effective:** 9-1-11

**House Author:** Miller, Doug et al.  
**Senate Sponsor:** Duncan

House Bill 2120 amends the Government Code to change the composition of the Teacher Retirement System of Texas (TRS) board of trustees by filling the position previously held by an

active employee of an institution of higher education with a member appointed by the governor from a slate of three persons nominated collectively by the following groups: TRS members whose most recent service was for an institution of higher education, TRS members whose most recent service was for a public school district, and TRS retirees receiving system benefits. A person is eligible for nomination to fill this position on the board if the person is a TRS member currently employed by an institution of higher education, a TRS member currently employed by a public school district, or a retiree receiving system benefits.

**House Bill 2561**  
**Effective:** 9-1-11

**House Author:** Eissler  
**Senate Sponsor:** Duncan

House Bill 2561 amends the Government Code to redefine “school year,” for purposes of establishing service credit in the Teacher Retirement System of Texas (TRS), as an exact 12-month period beginning September 1 and ending August 31 of the next calendar year. The bill removes an alternate definition of “school year” that was previously applicable for a TRS member whose contract or work agreement begins after June 30 and continues after August 31 of the same calendar year and that specified a period of not more than 12 months beginning on the start date in the contract or agreement. The bill makes its provisions applicable beginning with the 2012-2013 school year.

**Senate Bill 1667**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Truitt

Senate Bill 1667 amends provisions of the Government Code relating to the administration of the Teacher Retirement System of Texas (TRS). The bill entitles TRS to obtain from a law enforcement agency criminal history record information, including information that is the subject of an order of nondisclosure, that relates to certain persons who work for, contract with, or volunteer for TRS or who apply to work for or propose to enter into a contract with TRS. The bill makes the failure or refusal of an employee or applicant to provide certain items or information necessary for a law enforcement entity to obtain criminal history record information cause for dismissal or refusal to hire.

Senate Bill 1667 authorizes the TRS board of trustees or a board committee to hold a meeting by telephone conference call if a quorum of the applicable board or board committee is physically present at one location of the meeting and establishes specific requirements for the conduct of such a meeting. The bill excepts the name of an applicant for the position of TRS executive director, chief investment officer, or chief audit executive from disclosure under the state’s open records law but requires the board to give public notice of the names of three finalists being considered for one of those positions before taking a final action or vote on the selection of a finalist for employment.

Senate Bill 1667 allows a domestic relations order to be considered a qualified domestic relations order if the order provides, as an alternative to a social security number, an express authorization for the parties to use an alternate method acceptable to the public retirement system to verify the social security number of each party covered by the order and allows a public retirement system to reject a domestic relations order as a qualified domestic relations order if the order does not conform to a model order adopted by the system, if the system so requires. The bill authorizes a public retirement system to assess administrative fees on a party who is subject to a domestic relations order for the review of the order and for the administration of payments under an order that is determined to be qualified. The bill establishes that a prohibition against advocacy or legislative lobbying or the use of system assets to advocate or lobby does not prohibit comments by a TRS employee on federal laws, regulations, or other official actions or



proposed actions affecting or potentially affecting TRS that are made in accordance with board policies nor prohibit the use of system assets by an employee to make such comments.

Senate Bill 1667 requires a TRS member to notify the retirement system of membership service that has not been properly credited by TRS on an annual statement, requires the member to provide verification and make deposits as required before the service may be credited, and sets notification deadlines. The bill authorizes TRS to deduct the amount of a person's indebtedness to the system from an amount payable by the system to the person or the person's estate and the distributees of the estate and, if the system makes a payment to a deceased participant and the payment is not payable, to deduct the amount of the payment from any amount payable by the system to a person who received the payment or to that person's estate and its distributees.

Senate Bill 1667 entitles a beneficiary designated after a member's retirement, on the retiree's death, to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the beneficiary's life if the beneficiary designated at the time of the retiree's retirement is a trust and the beneficiary designated after retirement is the sole beneficiary of that trust. The bill adds the revocation of a beneficiary designation under a divorce decree and the ineligibility of a person to receive benefits for having caused the death of the member or annuitant to the conditions under which certain death benefits become payable and rights to elect survivor benefits, if applicable, become available to one of the classes of persons eligible to receive benefits in the absence of a designated beneficiary. The bill renders a person ineligible to receive a death benefit if the person is found not guilty by reason of insanity of causing the death of the member or annuitant or is the subject of an indictment, information, complaint, or other charging instrument alleging that the person caused the death of the member or annuitant and the person is determined to be incompetent to stand trial.

Senate Bill 1667 makes certain provisions relating to the conditions under which a member is eligible to retire and receive a standard service retirement annuity applicable only to a TRS member who becomes a member on or after September 1, 2007, rather than on or after September 1, 2006. The bill requires the TRS board of trustees to extend the tables used in determining a death benefit annuity to ages earlier than indicated in the tables.

Senate Bill 1667 revises procedures relating to the method for nominating candidates for the governor's consideration in making appointments to the TRS board of trustees and to the governor's appointment of such trustees based on the number of persons nominated. The bill requires the board of trustees to redesignate its actuary every four years, rather than every three years, and makes provisions relating to an employing school district's failure to remit all required member and employer deposits applicable to an employer generally. The bill authorizes TRS, if an executor or administrator of a deceased participant's estate has not been named, to release the participant's record to a person or entity who the executive director determines is acting in the interest of the deceased participant's estate or who is an heir, legatee, or devisee.

Current law requires TRS to acquire and maintain records identifying members and the types of positions they hold as members. Senate Bill 1667 adds the position of peace officer as a type of position to be identified. The bill makes provisions relating to contributions held in trust by an employer for the retired school employees group insurance fund and its participants applicable to an employing public school and its governing body and makes provisions relating to the interest assessed on a late payment by an employer of the required contributions to the retired school employees group insurance fund applicable to an employing public school. The bill authorizes the state to make a lesser contribution to TRS for the state fiscal year ending August 31, 2012, and to the retired school employees group insurance fund for the state fiscal year ending August 31, 2013, than is otherwise provided by law.



**Senate Bill 1668**

**Effective:** 9-1-11

**Senate Author:** Duncan

**House Sponsor:** Truitt

Senate Bill 1668 amends the Government Code to replace the additional reemployed veteran's credit that a person can establish in the Teacher Retirement System of Texas (TRS) for the person's active duty service in the United States armed forces with a USERRA credit and changes the qualification requirements for establishing such credit by reference to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 rather than to the federal Veteran's Reemployment Rights Act.

Senate Bill 1668 revises the eligibility requirements for establishing equivalent membership service credit for employment with an out-of-state public school system by requiring at least one year of service credit in TRS for actual in-state service completed after the relevant out-of-state service and revises the eligibility requirements for establishing equivalent membership service credit for developmental leave that is creditable in TRS by specifying a minimum number of years of service credited in TRS before and after that leave.

Senate Bill 1668 prohibits TRS, if deductions for member contributions were previously required but not paid, from providing benefits based on the service or compensation unless the deposits required for membership fees and contributions have been fully paid and establishes verification requirements for the person and the person's employer regarding the rendering of unreported service or payment of compensation. The bill removes the option for a member to submit other specified records in lieu of employer documentation and prohibits a person who does not obtain proof of service satisfactory to TRS from establishing the service or compensation credit. The bill authorizes a person to establish developmental leave credit, credit that was canceled by membership termination, or credit for previously unreported service or compensation by paying the deposits and fees required under previous law if certain conditions are met.

Senate Bill 1668 revises provisions relating to the amount of deposit required to purchase USERRA credits for active duty military service or to establish out-of-state service credit, equivalent membership service credit for developmental leave, or service or compensation credit for unreported service and increases the amount of the reinstatement fee for a member who terminated the member's TRS membership and becomes eligible to reinstate the canceled service credit. If the person does not make the deposits required to establish a USERRA credit, the bill authorizes TRS to consider the period of active duty in determining whether the person meets the length-of-service eligibility requirements for retirement or other TRS benefits. The bill makes certain provisions relating to deposit requirements for establishing out-of-state service credit, as amended by previous law, applicable to a person who was a member of TRS on December 31, 2005, and to out-of-state service performed before January 1, 2006.

Senate Bill 1668 repeals certain provisions relating to the establishment of out-of-state service credit, to the establishment of developmental leave credit, and to service credit canceled by membership termination.

**Senate Bill 1669**

**Effective:** 6-17-11

**Senate Author:** Duncan

**House Sponsor:** Truitt

Senate Bill 1669 amends provisions of the Government Code relating to the resumption of service by retirees under the Teacher Retirement System of Texas (TRS). Current law disqualifies a retiree from an entitlement to service or disability retirement benefit payments for any month in which the retiree is employed in any position by a Texas public educational institution. The bill makes that disqualification inapplicable to a retiree who is eligible for service retirement and whose effective date of retirement is on or before January 1, 2011. The bill establishes that employment of such a retiree does not entitle the retiree to additional service credit and that the retiree is not required to make contributions to the system from compensation for that

employment. Such a retiree is entitled to the resumption of monthly benefit payments beginning on the first payment date occurring on or after the bill's effective date if the person's benefit payments were suspended under previous law because of the person's resumption of employment, but the retiree is not entitled to recover benefit payments not made during the time those payments were suspended.

Senate Bill 1669 prohibits TRS from withholding a monthly benefit payment if a retiree is employed in a Texas public educational institution in one or more positions on as much as a full-time basis if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months after the retiree's effective date of retirement, rather than if the work occurs in not more than six months of a school year that begins after the retiree's effective date of retirement. The bill removes provisions applying the prohibition against withholding a monthly benefit payment to specific employment as a classroom teacher in an acute shortage area, a principal who retired without a reduction for an early retirement, a bus driver, or a faculty member in an undergraduate or graduate professional nursing program.

Current law prohibits TRS from withholding a monthly benefit payment to a disability retiree if the disability retiree is employed in a Texas public educational institution in a position, other than as a substitute, for a period not to exceed three consecutive months of the school year and if certain other conditions apply. Senate Bill 1669 removes the condition that the three consecutive months occur within a school year.

**The summary for the following bill is in the listed chapter:**  
House Bill 755 - Insurance



## Special Districts

This chapter covers legislation relating to special districts, including groundwater conservation districts, hospital districts, municipal utility districts, special utility districts, transportation authorities and districts, water authorities and districts, and economic development districts, including defense base authorities. Legislation that refers to special districts but is about emergency response, local government, or water is in the **Emergency Response**, **Local Government**, and **Water** chapters, respectively. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 534**  
**Effective:** 9-1-11

**House Author:** Phillips  
**Senate Sponsor:** Estes

A provision of the Water Code authorizes a city to provide in its written consent for the inclusion of land in a municipal utility district that a contract between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. House Bill 534 amends the Special District Local Laws Code to make this provision inapplicable to the Gunter Municipal Utility Districts Nos. 1 and 2 and to provide for the division of those districts.

The bill creates the Mustang Ranch Municipal Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments. The district is prohibited from exercising the power of eminent domain and from imposing a property tax or an impact fee.

The bill creates the Case Creek Municipal Utility District No. 1 of Grayson County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and provides for a district limitation on water supply and wastewater services, for use of district facilities by the Two Way Special Utility District, and for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 3804**  
**Effective:** 6-17-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 3804 amends the Special District Local Laws Code to create the Lajitas Utility District No. 1 of Brewster County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and provides for the provision of municipal utility district powers and duties and municipal management district improvement projects and services, electric power facilities, certain airport projects, development corporation powers, division of the district, and transfer of public improvements. The bill authorizes the district, subject to certain requirements, to issue obligations, levy special assessments, and impose property, operation and maintenance, contract, and sales and use taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

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**Senate Bill 801**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Weber

Senate Bill 801 amends the Special District Local Laws Code to authorize the seawall commission in Matagorda County to establish, construct, and maintain recreational facilities for public use adjacent to the seawall in Matagorda County.

**Senate Bill 1104**  
**Effective:** 5-20-11

**Senate Author:** Jackson  
**House Sponsor:** Smith, Wayne et al.

Senate Bill 1104 amends Water Code provisions relating to a ship channel district. Among other provisions, the bill requires a district's board of directors to make available to the public certain specified financial and project information at each annual meeting and at each required hearing on proposed assessments. The bill also requires the board to prepare a quarterly general accounting and requires the commissioners court that created the district to provide a quarterly financial report to the board. The bill adds a subchapter to the Water Code to provide a process for adding or excluding territory and facilities. The process involves a petition by the board to the commissioners court that created the district, notice and hearing on the board's petition, and modification of the order creating the district, if necessary. The bill authorizes a petition to be initiated by the board on its own or at the request of a facility.

**Senate Bill 1147**  
**Effective:** 4-1-13

**Senate Author:** Duncan  
**House Sponsor:** Ritter

Senate Bill 1147, a continuation of the legislature's ongoing statutory revision program, transfers provisions relating to various special districts from the session laws to the Special District Local Laws Code and makes conforming and related repeals. The transfers affect 17 hospital districts, 2 levee improvement districts, 10 districts governing groundwater, and 1 water power control district. The bill establishes that the legislature intends no substantive change and that the repeal of a law by the bill does not affect a validation made under that repealed law.

**Senate Joint Resolution 28**  
**For Election:** 11-8-11

**Senate Author:** Rodriguez  
**House Sponsor:** Marquez

Current law authorizes the legislature, for development of certain parks and recreational facilities that were not authorized to be developed and financed with taxes before September 13, 2003, to authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district located in one of several specified counties. Senate Joint Resolution 28 proposes an amendment to the state constitution to include El Paso County among the specified counties.

## **Economic Development—Districts and Authorities**

**House Bill 427**  
**Effective:** 6-17-11

**House Author:** Driver  
**Senate Sponsor:** Deuell

House Bill 427 amends the Special District Local Laws Code to create the Rowlett Waterfront Entertainment Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose impact fees, assessments, and property and maintenance and operation taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 447**  
**Effective:** 9-1-11

**House Author:** Menendez  
**Senate Sponsor:** Uresti

House Bill 447 amends the Local Government Code to expand the powers of a defense base development authority to include the power to charge for the use, lease, or sale of an open space. The bill authorizes an authority to charge for specified services that it provides and to implement a transportation project on the base property or outside of the base property to provide access to the base property; enter into an agreement with any person; and construct a building, loading dock, or other facility as part of a transportation project implemented on the base property.

**House Bill 737**  
**Effective:** 6-17-11

**House Author:** Otto  
**Senate Sponsor:** Williams

House Bill 737 amends the Special District Local Laws Code to include in the definition of “venue,” for purposes of the East Montgomery County Improvement District, an arena, coliseum, stadium, or other type 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. The bill repeals a provision relating to prescribed ballot language for a proposition to increase the district sales tax.

**House Bill 1120**  
**Effective:** 6-17-11

**House Author:** Weber  
**Senate Sponsor:** Jackson

House Bill 1120 repeals the chapter of the Special District Local Laws Code relating to the establishment and operation of the Country Place Management District.

**House Bill 1525**  
**Effective:** 6-17-11

**House Author:** Alvarado  
**Senate Sponsor:** Gallegos

House Bill 1525 amends the Special District Local Laws Code to remove the minimum age requirement for a person to be qualified to serve on the Greater East End Management District board of directors, to lower from at least 60 percent to at least one-third the proportion of the directors who are required to be residents of the district, and to remove provisions requiring that each director who does not reside in the district have a district business interest.

**House Bill 1651**  
**Effective:** 9-1-11

**House Author:** Alonzo  
**Senate Sponsor:** West

House Bill 1651 amends the Special District Local Laws Code to include revenue received by the North Oak Cliff Municipal Management District under the Tax Increment Financing Act among the sources of money that the district may use to secure district bonds. The bill authorizes the district, by the adoption of an order, to define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole. The bill requires the district to hold an election in the defined area or in the designated property’s boundaries before imposing a property tax or issuing bonds payable from the property tax in that defined area or designated property. The bill authorizes the district, on the adoption of an order and voter approval of the tax levy, to apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property and to issue bonds for the stated purposes.



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**House Bill 2296**  
**Effective:** 6-17-11

**House Author:** Ritter  
**Senate Sponsor:** Huffman

House Bill 2296 amends the Special District Local Laws Code to create the Jefferson County Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments and property, operation and maintenance, contract, and rail facilities taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 2670**  
**Effective:** 6-17-11

**House Author:** Miles  
**Senate Sponsor:** Ellis

House Bill 2670 enlarges the boundaries of Harris County Improvement District No. 5 and sets out in detail the boundaries of the additional land.

**House Bill 3597**  
**Effective:** 6-17-11

**House Author:** Larson  
**Senate Sponsor:** Uresti

House Bill 3597 amends the Local Government Code to make adjustments to the applicability of statutory provisions relating to certain improvement projects. The bill authorizes a public improvement district created in a county with certain characteristics, after obtaining consent from a specified public entity, to annex or exclude land from the district as provided by the law. The bill removes certain specifications related to the imposition and the use of revenue generated from the hotel occupancy tax in a public improvement district. The bill authorizes a hotel occupancy tax imposed by a district in such a county to be used for certain purposes. The bill authorizes a public improvement district located in a county with certain characteristics, if authorized by the county, to use the revenue from a hotel occupancy tax for any purpose authorized by provisions of law relating to certain improvement projects if the owner of the hotel agrees to the imposition of the tax.

**House Bill 3819**  
**Effective:** 9-1-11

**House Author:** Crownover  
**Senate Sponsor:** Nelson

House Bill 3819 amends the Special District Local Laws Code to create the Valencia Municipal Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments. The district is prohibited from exercising the power of eminent domain and from imposing a property tax.

**House Bill 3827**  
**Effective:** 6-17-11

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 3827 amends the Special District Local Laws Code to create the Fulshear Town Center Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments and property and hotel occupancy taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 3828**  
**Effective:** 6-17-11

**House Author:** Hochberg  
**Senate Sponsor:** Gallegos

House Bill 3828 amends the Special District Local Laws Code to create the Gulfton Area Municipal Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements,

the authorization to issue obligations and impose assessments and a property tax. The district is prohibited from exercising the power of eminent domain.

**House Bill 3831**  
**Effective:** 9-1-11

**House Author:** Marquez et al.  
**Senate Sponsor:** Rodriguez

House Bill 3831 amends the Special District Local Laws Code to create the Montecillo Municipal Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements and certain approval of a bond issuance plan and project development agreement with the City of El Paso, the authorization to issue obligations and impose assessments and property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 3834**  
**Effective:** 6-17-11

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 3834 amends the Special District Local Laws Code to create the North Fort Bend County Improvement District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments and property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 3836**  
**Effective:** 9-1-11

**House Author:** Pitts  
**Senate Sponsor:** Birdwell

House Bill 3836 amends the Special District Local Laws Code to create the Windsor Hills Municipal Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to the execution of a certain development agreement and finance plan involving the City of Midlothian and to certain requirements, the authorization to issue obligations and impose assessments. The district is prohibited from exercising the power of eminent domain and from imposing a property tax.

**House Bill 3842**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Patrick

House Bill 3842 amends the Special District Local Laws Code to create the Bridgeland Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments, public transit system use fees, and sales and use and hotel occupancy taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 3852**  
**Effective:** 6-17-11

**House Author:** Pitts  
**Senate Sponsor:** Birdwell

House Bill 3852 amends the Special District Local Laws Code to create the Midlothian Municipal Management District No. 2 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations, establish nonpotable irrigation water user charges, and impose assessments, impact fees, and property and maintenance and operation taxes. The district is prohibited from exercising the power of eminent domain and from exercising any powers until a certain development agreement and finance plan involving the City of Midlothian are executed.

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**House Bill 3857**  
**Effective:** 6-17-11

**House Author:** Dutton  
**Senate Sponsor:** Gallegos

House Bill 3857 amends the Special District Local Laws Code to create the Near Northside Management District to provide certain improvements, projects, and services for public use and benefit. The district is prohibited from exercising the power of eminent domain.

**House Bill 3859**  
**Effective:** 9-1-11

**House Author:** Laubenberg  
**Senate Sponsor:** Deuell

House Bill 3859 amends the Special District Local Laws Code to create the Club Municipal Management District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain approval of the City of Heath and other requirements, the authorization to issue obligations and impose assessments. The district is prohibited from exercising the power of eminent domain and from imposing an impact fee or a tax.

**Senate Bill 233**  
**Effective:** 6-17-11

**Senate Author:** Deuell  
**House Sponsor:** Driver

Senate Bill 233 amends the Special District Local Laws Code to create the Rowlett Pecan Grove Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements and an interlocal project development agreement with the City of Rowlett, the authorization to issue obligations and impose assessments, impact fees, and property and maintenance and operation taxes. The district is prohibited from exercising the power of eminent domain.

**Senate Bill 234**  
**Effective:** 6-17-11

**Senate Author:** Deuell  
**House Sponsor:** Driver

Senate Bill 234 amends the Special District Local Laws Code to create the Rowlett Downtown Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements and an interlocal project development agreement with the City of Rowlett, the authorization to issue obligations and impose assessments, impact fees, and property and maintenance and operation taxes. The district is prohibited from exercising the power of eminent domain.

**Senate Bill 410**  
**Effective:** 5-12-11

**Senate Author:** Eltife  
**House Sponsor:** Lavender

Senate Bill 410 amends the Special District Local Laws Code to rename the Red River Redevelopment Authority as the TexAmericas Center and to authorize the center to conduct business under an assumed name by filing an assumed name certificate. The bill clarifies that the Riverbend Water Resources District is composed of territory, in addition to other territory, that has already been added to the center under provisions authorizing the expansion of the center's territory. The bill repeals previous law that authorized Bowie County to transfer to the Red River Redevelopment Authority assets from the United States Department of the Army or the state.

**Senate Bill 412**  
**Effective:** 6-17-11

**Senate Author:** West  
**House Sponsor:** Elkins

Senate Bill 412 amends the Local Government Code to authorize costs of improvements of a public improvement district designated by a municipality or county to be paid or reimbursed by any combination of specified methods if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of certain entities. The bill authorizes the payment or

reimbursement to be provided before or after a method of authorized payment or reimbursement is entered into or issued. The bill authorizes costs from a special assessment payable in installments to be paid by a combination of specified methods, including an installment sales contract, reimbursement agreement, temporary note, time warrant, or bond, authorizes the assignment of such a contract, agreement, note, or warrant by the payee without the consent of the municipality or county, and changes the cap on the interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, time warrant, or bond. Previous law authorized the cost of more than one improvement to be paid, as an alternative to payment from a single issue and sale of bonds without other consolidation proceedings before the bond issue, under an agreement with a person who contracted to install or construct the improvement and who sold the improvement to the municipality or county. The bill changes that alternative authorization to payment under a single installment sales contract, reimbursement agreement, temporary note, or time warrant. The bill repeals a provision relating to the issuance of temporary notes while an improvement is in progress.

**Senate Bill 900****Effective:** 6-17-11**Senate Author:** Gallegos**House Sponsor:** Thompson

Senate Bill 900 amends the Special District Local Laws Code to rename the Aldine Improvement District as the East Aldine Management District and to add territory to the district. The bill authorizes revenue from the district sales and use tax to be used for any purpose for which revenue of the district may be used. The district's board of directors may establish one or more areas in the district as a special sales and use tax zone under certain conditions. The special sales and use tax rate may be different from the sales and use tax rate imposed in the rest of the district if the rate is approved by a majority of the zone's voters, but the combined rate of sales and use taxes imposed by the district and other political subdivisions may not exceed two percent at any location in the district. The bill exempts from a special sales and use tax the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within a special sales and use tax zone of, a taxable item sold, leased, or rented by a retail electric provider; an electric utility or a power generation company; a gas utility or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas; a person who owns pipelines used for the transportation or sale of carbon dioxide; a telecommunications provider; or a cable service provider or video service provider.

**Senate Bill 1184****Effective:** 6-17-11**Senate Author:** Nichols**House Sponsor:** Christian

Senate Bill 1184 amends the Special District Local Laws Code to create the Timber Springs Municipal Management District to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements and a project development agreement, the authorization to issue obligations, establish storm water and nonpotable water user charges, and impose assessments, impact fees, and property and maintenance and operation taxes. The district is prohibited from exercising the power of eminent domain.

**Senate Bill 1234****Effective:** 9-1-11**Senate Author:** West**House Sponsor:** Dutton

Senate Bill 1234 amends the Local Government Code to revise provisions relating to municipal management districts, including procedural matters, competitive bidding on certain contracts, the authority for road projects, and the imposition of property taxes for those projects. The bill decreases from nine to five the minimum number of members of a district board of

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directors. The bill specifies the circumstances under which a governmental act or proceeding of a district is conclusively presumed valid and to have occurred in accordance with all applicable statutes and rules and sets out conditions for these presumptions. The bill includes theatres, studios, exhibition halls, production facilities, and supporting ancillary facilities among the projects or services authorized to be provided by a municipal management district.

Senate Bill 1234 clarifies that bonds payable wholly or partly from property taxes that a district submits to the attorney general for examination, along with certain corresponding proceedings, are bonds that are public securities. The bill requires the board of a district, at the time the district issues the bonds, to provide for the annual imposition of a continuing direct annual property tax, without limit as to rate or amount, while all or part of the bonds are outstanding.

Senate Bill 1234 removes a provision prohibiting a district from being dissolved by a municipality and authorizes a district with territory in the extraterritorial jurisdiction of a municipality to negotiate and enter into a written strategic partnership with the municipality. The bill repeals provisions relating to areas eligible for creation of a municipal management district, creation of a district in a municipality with a population of more than 1.5 million, and the requirement that a municipality or the Texas Commission on Environmental Quality appoint persons with experience in certain areas to the board of a district.

**Senate Bill 1493**  
**Effective:** 6-17-11

**Senate Author:** Uresti  
**House Sponsor:** Farias

Senate Bill 1493 amends the Local Government Code to decrease from 15 to 11 the number of directors on the board of a defense adjustment management authority and to decrease proportionately the number of appointments to the board made by the municipality that created the authority and the county in which that municipality is primarily located. The bill sets out provisions relating to director residency requirements and qualifications. The bill requires the board of an authority to annually study and report to the legislature regarding the effectiveness of the authority.

**Senate Bill 1882**  
**Effective:** 6-17-11

**Senate Author:** Patrick  
**House Sponsor:** Fletcher

Senate Bill 1882 amends the Special District Local Laws Code to create the Harris County Improvement District No. 22 in order to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments and property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**Senate Bill 1899**  
**Effective:** 6-17-11

**Senate Author:** Nichols  
**House Sponsor:** Pitts

Previous law provided that a director of the Lake View Management and Development District was not entitled to compensation for service on the district board of directors. Senate Bill 1899 amends the Special District Local Laws Code to entitle such a director to receive fees of office of not more than \$150 a day for each day the director spends performing the duties of a director as compensation for service on the board. The bill requires the board by resolution to set a limit on such fees that a director may receive in a year, with a maximum of \$7,200, and requires a director to file a verified statement in order to receive compensation or reimbursement for expenses.



**Senate Bill 1922**  
**Effective:** 6-17-11

**Senate Author:** Lucio  
**House Sponsor:** Oliveira

Senate Bill 1922 amends the Special District Local Laws Code to create the Port Isabel Improvement District No. 1 to provide certain improvements, projects, and services for public use and benefit. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations, establish storm water and nonpotable water user charges, and impose assessments and property and maintenance and operation taxes. The bill provides for the eminent domain power necessary to construct a seawall.

## **Emergency—Emergency Services Districts**

**Senate Bill 917**  
**Effective:** 6-17-11

**Senate Author:** Wentworth  
**House Sponsor:** Miller, Doug

Senate Bill 917 amends the Health and Safety Code to repeal the statutes governing emergency services districts in counties of 125,000 or less. The bill converts such a district into a district governed by the statutes relating to all emergency services districts and provides for the continuing service of an emergency services commissioner of a converted district.

Senate Bill 917 requires the commissioners court of each county with a population of three million or less in which a proposed emergency services district is located, if the territory of the proposed district overlaps with the boundaries of another existing district, to send to the board of emergency services commissioners of the existing district a copy of the petition for creation of the proposed district. The board is required to adopt a statement before the date of the confirmation election that specifies the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created. The bill revises the prohibition related to the provision of duplicate services by the most recently created district. The bill authorizes a person to serve as an emergency services commissioner of a district at the same time that the person serves as an emergency services commissioner of another district with overlapping territory.

The bill specifies that two or more districts may consolidate, rather than merge, into a single district and requires the board of each district, before consolidation, to determine that consolidation would allow the districts to provide services more economically and efficiently. The bill establishes provisions relating to the appointment of commissioners to the board of the consolidated district if the board does not make the appointments before a specified date, revises procedures related to an election for the consolidation of districts, and establishes provisions relating to the property tax rates for a consolidated district.

The bill prohibits an emergency services district from regulating the sale, use, or transportation of fireworks but authorizes a district to adopt a rule relating to fireworks that is the same as or less stringent than certain rules adopted or enforced by the commissioner of insurance and the state fire marshal.

The bill establishes provisions requiring an emergency services commissioner to complete at least six hours of continuing education at least once in a two-year period and authorizing the board of emergency services commissioners to contract with a local government to provide necessary staff, facilities, equipment, programs, or services.

The bill revises provisions relating to the removal of appointed board members and authorizes the removal of elected board members under specified provisions of the Local Government Code. The bill establishes, in provisions relating to the audit of certain districts, the condition under which a president and treasurer of a board are removed from the board. The bill prohibits a board



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from setting the property tax rate for a fiscal year before the date the board adopts a budget for that fiscal year. The bill makes provisions relating to a district election regarding the approval of bonds and notes inapplicable to a secured loan for real property or emergency services equipment, including a loan made before the bill's effective date.

### **Emergency—Hospital Districts**

**House Bill 460**  
**Effective:** 6-17-11

**House Author:** White  
**Senate Sponsor:** Ogden

House Bill 460 amends the law relating to the Trinity Memorial Hospital District to increase from four to five the number of board members that constitute a quorum and that are sufficient to concur in all business matters of the district.

**House Bill 811**  
**Effective:** 6-17-11

**House Author:** Darby  
**Senate Sponsor:** Duncan

House Bill 811 amends the Special District Local Laws Code to establish the Scurry County Hospital District. The board of directors of the district may employ health care providers other than physicians as the board considers necessary for the efficient operation of the district. The bill sets out provisions relating to the board's authority to borrow money, secure a loan, secure and repay district bonds, and use bond proceeds.

**House Bill 850**  
**Effective:** 6-17-11

**House Author:** Craddick  
**Senate Sponsor:** Duncan

House Bill 850 amends the law relating to the Rankin County Hospital District. The bill revises provisions relating to the election, terms, composition, and powers and duties of the board of directors of the district. The bill also revises certain procedures relating to the issuance of bonds, the borrowing of money, a district depository, and construction contracts.

**House Bill 969**  
**Effective:** 6-17-11

**House Author:** Lewis  
**Senate Sponsor:** Seliger

Previous law required a petition requesting that a person's name be printed on the ballot as a candidate for member of the board of directors of the Ector County Hospital District to be filed with the board secretary not later than 5 p.m. on the 45th day before the date of an election. House Bill 969 amends the Special District Local Laws Code to change the deadline to the 62nd day before the date of an election.

**House Bill 1110**  
**Effective:** 9-1-11

**House Author:** Craddick  
**Senate Sponsor:** Seliger

Under previous law, a construction or purchase contract made by the Midland County Hospital District of Midland County, Texas, that involved the expenditure of more than \$25,000 was authorized to be made only after the district advertised the contract in the manner specified in Local Government Code provisions relating to the purchasing and contracting authority of municipalities. House Bill 1110 amends the Special District Local Laws Code to change the manner by which the contract may be made from advertising to competitive bidding under those same Local Government Code provisions and changes the amount of the expenditure from more than \$25,000 to the amount provided by the Local Government Code provision establishing competitive requirements for purchases by municipalities, currently set at more than \$50,000.

**House Bill 1144**  
**Effective:** 6-17-11

**House Author:** Cain  
**Senate Sponsor:** Deuell

House Bill 1144 amends the Special District Local Laws Code to establish that it is a ground for removal from the board of directors of the Hopkins County Hospital District that a director is absent from at least four regularly scheduled board meetings that the director is eligible to attend in any 12-month period without an excuse approved by a majority vote of the board. Such a director may be removed using the procedures provided by law for removing a county official by petition and trial. The bill also increases from two to three years the length of time a bank may serve as the district's depository or treasurer.

**House Bill 1293**  
**Effective:** 6-17-11

**House Author:** Price  
**Senate Sponsor:** Seliger

House Bill 1293 amends the Special District Local Laws Code, in provisions relating to geriatric care facilities in a hospital system established by the Moore County Hospital District, to update language referring to geriatric domiciliary care and convalescent home facilities. The bill specifies that the hospital system's geriatric care facilities may include assisted living facilities and independent elderly living facilities.

Previous law authorized a district construction or purchase contract that involved the expenditure of more than \$15,000 to be made only after advertising in the manner provided by the Local Government Code procedures used for competitive bidding on certain public works contracts. The bill changes the minimum amount of such an expenditure to the amount provided in the applicable Local Government Code provision, which is currently set at \$50,000.

**House Bill 1413**  
**Effective:** 6-17-11

**House Author:** Chisum  
**Senate Sponsor:** Duncan

House Bill 1413 amends the Special District Local Laws Code to change the method of publishing the notice of an election of members of the board of directors of the Castro County Hospital District. Previous law required such notice to be published one time in a newspaper of general circulation in Castro County not earlier than the 30th day or later than the 10th day before the date of the election. The bill requires the notice to be published in such a newspaper in accordance with a specified Election Code provision relating to methods of giving notice of an election.

The bill authorizes the board to provide for the security and payment of district bonds from a pledge of a combination of authorized property taxes and authorized revenue and other sources. The bill establishes the authorized uses of the proceeds of issued bonds.

**House Bill 1496**  
**Effective:** 9-1-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 1496 amends the law relating to the Val Verde County Hospital District. Under previous law, the district was authorized to make all construction contracts involving the expenditure of more than \$15,000 and all district contracts for purchases involving the expenditure of more than \$15,000 only after advertising in the manner established by certain Local Government Code provisions. The bill requires district construction contracts involving the expenditure of more than \$50,000 to be procured in the manner provided by the Local Government Code provisions governing competitive bidding on certain public works contracts applicable to certain local governments. The bill also requires all district contracts for purchases involving the expenditure of more than \$50,000, other than contracts subject to those Local Government Code provisions or to Government Code provisions governing public work performance and payment bonds, to be procured in the manner provided by the County Purchasing Act.

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**House Bill 1568**  
**Effective:** 6-17-11

**House Author:** Coleman  
**Senate Sponsor:** Gallegos

House Bill 1568 amends the Health and Safety Code to authorize the board of hospital managers of the Harris County Hospital District to appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district and as necessary for the district to fulfill its statutory mandate to provide medical care for the indigent and needy residents of the district. The bill requires the district's medical executive board to adopt, maintain, and enforce policies to ensure that a physician exercises the physician's independent medical judgment in providing care.

House Bill 1568 amends the Local Government Code to authorize the commissioners court of a county with a population of 3.3 million or more to appoint, contract for, or employ physicians to provide health care services to inmates in the custody of the sheriff.

**House Bill 1967**  
**Effective:** 9-1-11

**House Author:** Chisum  
**Senate Sponsor:** Duncan

House Bill 1967 amends the Special District Local Laws Code to increase the maximum dollar amount of a purchase that the Collingsworth County Hospital District is authorized to make without having to comply with advertising requirements in the Local Government Code.

**House Bill 2351**  
**Effective:** 6-17-11

**House Author:** McClendon  
**Senate Sponsor:** Van de Putte

House Bill 2351 amends the Health and Safety Code to authorize the board of hospital managers of the Bexar County Hospital District to employ physicians as the board considers necessary for the efficient operation of the district. The bill requires a physician employed by the district to practice with a nonprofit health organization certified by the Texas Medical Board and created by the district.

**House Bill 3462**  
**Effective:** 6-17-11

**House Author:** Margo et al.  
**Senate Sponsor:** Rodriguez

House Bill 3462 amends the Health and Safety Code to require the El Paso County Commissioners Court by order to provide for the qualifications of appointees to the board of hospital managers of the El Paso County Hospital District. The bill sets out the conditions under which the commissioners court is prohibited from appointing a person to the board and expands the conditions under which a member of the board is considered to have resigned the member's position.

**House Bill 3815**  
**Effective:** 6-17-11

**House Author:** Lewis  
**Senate Sponsor:** Seliger

House Bill 3815 amends the Special District Local Laws Code to authorize the board of directors of the Ector County Hospital District to employ and commission peace officers for the district. The bill establishes the jurisdiction of a peace officer so commissioned and authorizes the district peace officer to make an arrest in the officer's jurisdiction without a warrant under certain conditions. House Bill 3815 amends the Code of Criminal Procedure to add peace officers commissioned by the district board of directors to the list of persons who are considered peace officers.

**Senate Bill 310**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Smithee

Senate Bill 310 amends the Special District Local Laws Code to authorize the board of directors of the Dallam-Hartley Counties Hospital District to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the district if the board satisfies certain requirements, including appointing a chief medical officer and adopting, maintaining, and enforcing policies, which must be approved by the chief medical officer, to ensure that a physician exercises the physician's independent medical judgment in providing care. In addition, the bill authorizes the board to employ other health care providers as the board considers necessary for the efficient operation of the district.

Certain provisions relating to the board's authority to borrow money and secure a loan are revised. Senate Bill 310 also establishes additional means of securing the repayment of district bonds, authorizes the use of bond proceeds for specified purposes, and establishes procedures for the dissolution of the district.

**Senate Bill 311**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Chisum

Senate Bill 311 amends the Special District Local Laws Code to authorize the board of directors of the Ochiltree County Hospital District to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital owned or operated by the district if the board satisfies certain requirements, including appointing a chief medical officer and adopting, maintaining, and enforcing policies, which must be approved by the chief medical officer, to ensure that a physician exercises the physician's independent medical judgment in providing care. In addition, the bill authorizes the board to employ health care providers other than physicians.

**Senate Bill 398**  
**Effective:** 5-12-11

**Senate Author:** Duncan  
**House Sponsor:** Frullo

Senate Bill 398 amends the Special District Local Laws Code to increase the minimum and maximum number of managers on the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, to not fewer than six and not more than eight managers.

**Senate Bill 490**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Miller, Sid

Senate Bill 490 amends provisions of the Special District Local Laws Code relating to the Hamilton County Hospital District. The bill establishes election procedures that are in accordance with the Election Code and sets out provisions relating to the board's authority to borrow money, the authorized uses of bond proceeds, the expansion of district territory to the entire county, and procedures for the dissolution of the district.

**Senate Bill 558**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Senate Bill 558 amends the law relating to the Swisher Memorial Hospital District. The bill revises provisions relating to the eligibility requirements for the board of directors of the district; establishes election procedures that are in accordance with the Election Code; and sets out provisions relating to the district's authority to borrow money and issue bonds, to the security and payment of bonds, and to the authorized uses of bond proceeds.

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**Senate Bill 601**  
**Effective:** 6-17-11

**Senate Author:** Rodriguez  
**House Sponsor:** Gonzalez

Senate Bill 601 amends the Health and Safety Code to authorize the board of managers of the El Paso County Hospital District to employ and commission peace officers for the district and amends the Code of Criminal Procedure to add those officers to the list of persons who are considered peace officers.

**Senate Bill 628**  
**Effective:** 5-28-11

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Senate Bill 628 amends the Special District Local Laws Code to authorize the Childress County Hospital District to provide specified types of facilities or services for the care of persons who are elderly or disabled and to provide durable medical equipment to provide such services. The bill authorizes the board of directors of the district to issue general obligation bonds, revenue bonds, and other notes to acquire, construct, or improve a facility for the care of persons who are elderly or disabled or to implement the delivery of a service for the care of such persons.

**Senate Bill 847**  
**Effective:** 6-17-11

**Senate Author:** Patrick  
**House Sponsor:** Davis, John

Senate Bill 847 amends the Health and Safety Code to authorize the board of hospital managers of a hospital district in a county with a population of at least 190,000 to contract with a federally qualified health center or a federally qualified health center look-alike to perform for the center administrative functions and services that the hospital district and the center may perform independently. These provisions apply only to a federally qualified health center as defined by federal law or a federally qualified health center look-alike organized and operated under the authority of and in compliance with provisions of federal law relating to health centers that is substantially devoted to providing services to socially and economically disadvantaged individuals in the geographic area of the district.

**Senate Bill 860**  
**Effective:** 6-17-11

**Senate Author:** Rodriguez  
**House Sponsor:** Gonzalez

Senate Bill 860 amends the Health and Safety Code to authorize the board of managers of the El Paso County Hospital District to appoint, contract for, or employ physicians, dentists, and other health care providers as the board considers necessary for the efficient operation of the district and as necessary for the district to fulfill its statutory mandate to provide medical care for the indigent and needy residents of the district. The bill requires the district's medical executive committee to adopt, maintain, and enforce policies to ensure that a physician exercises the physician's independent medical judgment in providing care.

**Senate Bill 1352**  
**Effective:** 6-17-11

**Senate Author:** Watson  
**House Sponsor:** Naishtat

Senate Bill 1352 amends the Health and Safety Code to authorize the board of hospital managers of a hospital district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003, to lease any property or hospital facility without the approval of the commissioners court. The bill authorizes the board to enter into the lease only after an open meeting in accordance with state open meetings law.



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### House Bill 423

**Effective:** 6-17-11

**House Author:** Guillen

**Senate Sponsor:** Williams

House Bill 423 amends the Transportation Code to authorize the governing body of a rural or urban transit district, by resolution, to adopt rules for the safe and efficient operation and maintenance of the transit district's transportation system. The bill prohibits the rules from relating to a license to carry a concealed handgun.

### House Bill 1112

**Effective:** See below

**House Author:** Phillips

**Senate Sponsor:** Nichols

House Bill 1112 amends Transportation Code provisions relating to the authority and powers of a regional mobility authority. Among other provisions, the bill:

- authorizes an authority to participate in the state travel management program and authorizes the comptroller to charge the authority a related fee;
- authorizes an authority to borrow money from or enter into a loan agreement or other arrangement with any public or private entity;
- authorizes an authority to pledge available funds to the payment of any obligations of the authority under an authorized contract or agreement; and
- provides that an authority has the same powers and duties as the Texas Department of Transportation, a county toll project entity, and a regional tollway authority with regard to toll collection and enforcement for a toll project.

The bill also authorizes the governing body of a municipality to establish the governing body as the board of directors of an authority created by a municipality and requires the governor to appoint an additional director in such a case. The bill adds governance provisions that relate to an authority governed by the governing body of a municipality and prohibits such an authority from being dissolved unless certain conditions are met.

Except for provisions relating to the board of directors of an authority created by a municipality, which have no effect if the attorney general issues an opinion prohibiting a member of the governing body of a municipality from serving as a director of an authority, the bill takes effect June 17, 2011.

### House Bill 1251

**Effective:** 5-27-11

**House Author:** Deshotel

**Senate Sponsor:** Williams

House Bill 1251 amends the law relating to the Port of Port Arthur Navigation District of Jefferson County to require the district to hold the May election of the members of the board of port commissioners of the district on a uniform election date and to increase from four years to six years the term of office of the commissioners.

### House Bill 1305

**Effective:** 6-17-11

**House Author:** Bonnen

**Senate Sponsor:** Huffman

House Bill 1305 amends the Transportation Code to authorize the Texas Department of Transportation to authorize a port authority or navigation district in a county contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and adjacent to at least two counties with a population of 550,000 or more to issue oversize or overweight vehicle permits. The bill requires the Texas Transportation Commission, for a permit issued by a port authority located in a county that is adjacent to at least two counties with a population of 550,000 or more and



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with the consent of the port authority, to designate the most direct route from the intersection of certain roads to the entrance of Port Freeport.

**House Bill 2195**  
**Effective:** 6-17-11

**House Author:** Hartnett  
**Senate Sponsor:** Carona

House Bill 2195 amends the Transportation Code to specify that the law governing the duration of certain contracts of a regional transportation authority consisting of one subregion governed by a subregional board and having a principal municipality with a population of more than 800,000 does not apply to a multiyear commodity or utility service purchase arrangement or agreement.

**House Bill 2223**  
**Effective:** 9-1-11

**House Author:** Davis, Yvonne  
**Senate Sponsor:** Carona

House Bill 2223 amends the Transportation Code to increase from \$25,000 to \$50,000 the threshold amount below which contracts of certain regional transportation authorities are not required to be competitively bid.

**House Bill 2346**  
**Effective:** 9-1-11

**House Author:** Bonnen  
**Senate Sponsor:** Huffman

House Bill 2346 amends the Government Code to expand the current investment options available to a port or navigation district, by authorizing such an entity to purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that meets certain credit rating requirements.

**House Bill 2396**  
**Effective:** 9-1-11

**House Author:** McClendon  
**Senate Sponsor:** Zaffirini

House Bill 2396 amends the Transportation Code to increase from more than 700,000 to more than 1.3 million the population of the principal municipality of a metropolitan rapid transit authority in which the board of the authority is authorized to order an election to create an advanced transportation district and to impose a sales and use tax. The bill authorizes the governing body of a district, without the necessity of an election, to pledge certain proceeds of the tax to tax revenue bonds as prescribed by the bill if the board of the authority has fulfilled certain notice and hearing requirements.

**House Bill 2770**  
**Effective:** 6-17-11

**House Author:** Smith, Wayne et al.  
**Senate Sponsor:** Williams

House Bill 2770 amends Water Code provisions relating to navigation districts generally. Among other provisions, the bill makes provisions governing the additional powers and duties of a navigation district not participating with the United States in a navigation project also apply to a district participating in such a project if the navigation and canal commission of the district adopts the provisions; authorizes the commission of a district to suppress and prevent nuisances, pollution, and improper disposal of materials on district property; authorizes a district to enter into a contract, lease, or agreement relating to the use or acquisition of real or personal property for the improvement of port facilities; and authorizes a district to establish an electronic requisition system for certain routine purchases or contracts.

House Bill 2770 adds a subchapter to the Water Code to provide for the operation of a district employee charitable campaign. The navigation and canal commission or the executive director of a navigation district is required to establish and adopt rules for such a campaign, and a district employee is authorized to make a deduction each pay period for a charitable contribution. The

bill describes procedures for the designation of an eligible charitable organization by a district employee and for revoking or changing the designation. The bill includes provisions that govern the confidentiality of an employee's designation and certain other information. The executive director is required to oversee the campaign and the employees who conduct the campaign. The bill establishes criteria to assess the eligibility of a charitable organization to participate in the campaign and sets out requirements for the fund-raising practices of a participating organization. The bill limits the use of contributions by a participating organization and authorizes a district to obtain an audit of a participating organization if the district reasonably believes that the organization has misapplied contributions.

House Bill 2770 amends provisions relating to navigation districts created under the Texas Constitution to establish conditions under which the navigation and canal commission of a district may authorize the destruction or disposition of salvage or surplus property as worthless and amends those provisions and other provisions relating to self-liquidating navigation districts to specify the manner in which notice must be published before a district may grant franchises on property owned or controlled by the district. The bill amends the law to make the Port of Houston Authority subject to sunset review, requiring the review to be conducted as if the authority were scheduled to be abolished September 1, 2013. The bill also amends the Local Government Code to make provisions governing design-build procedures for certain civil works projects apply to a board of trustees managing harbor and port facilities in certain municipalities.

**House Bill 2792**  
**Effective:** 6-17-11

**House Author:** Hunter  
**Senate Sponsor:** Hegar

House Bill 2792 amends the Special District Local Laws Code to establish the authority of the Aransas County Navigation District to determine the amount of a check or bond necessary to purchase land from the district.

**House Bill 3030**  
**Effective:** 9-1-11

**House Author:** McClendon  
**Senate Sponsor:** Wentworth

House Bill 3030 amends the Transportation Code to allow an intermunicipal commuter rail district to enter into an interlocal contract with one or more local government members, rather than a member, to finance transportation infrastructure. The bill requires a district created before January 1, 2005, that creates a transportation infrastructure zone to establish a tax increment fund and specifies the revenue that must be deposited in the fund. The bill authorizes a local government member of such a district to issue tax increment bonds or notes secured by revenue in the local government's tax increment fund for purposes of the zone and includes certain financing provisions relating to the tax increment bonds and notes. The bill also includes provisions relating to the geographic area and amount paid by a local government member of such a district.

**House Bill 3843**  
**Effective:** 6-17-11

**House Author:** Thompson  
**Senate Sponsor:** Whitmire

House Bill 3843 excludes certain territory from the Harris County Road Improvement District No. 2.

**Senate Bill 246**  
**Effective:** 6-17-11

**Senate Author:** Shapiro  
**House Sponsor:** Harper-Brown

Senate Bill 246 amends Transportation Code provisions relating to toll collection services that a regional tollway authority must provide for a toll project located in the boundaries of the authority. The bill requires an authority, before providing the services, to enter into a written agreement that sets out the terms and conditions for the services. The bill prohibits an authority

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from providing financial security for performing the services if certain conditions are present and authorizes any public or private entity to fund a cash collateral account to be used in the event that an authority fails to make a payment required by a tolling services agreement.

**Senate Bill 469**  
**Effective:** 9-1-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Patrick

Senate Bill 469 amends the Transportation Code to require a regional tollway authority to use alternative tolling methods to permit the registered owner of a vehicle that is driven or towed through a toll assessment facility to pay the toll at a later date and establishes procedures to allow the authority to collect the toll within a certain time frame. The procedures involve mailing an invoice and, if necessary, a series of notices of nonpayment to the registered owner of the nonpaying vehicle. The procedures also provide for the assessment of one or more administrative fees and third-party collection service fees. If the registered owner of the nonpaying vehicle is prosecuted for nonpayment, the bill prohibits the court from waiving the unpaid toll and fees unless the court finds that the registered owner is indigent.

**Senate Bill 524**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Morrison

Senate Bill 524 amends Transportation Code provisions providing an optional procedure for the issuance of a permit by the Victoria County Navigation District for the movement of oversize or overweight vehicles carrying cargo in Victoria County. The bill authorizes the issuance of such a permit only on certain specified highways and roads in the county. The bill also increases the fee per trip and the maximum allowable weight of a vehicle carrying cargo on the highways and roads. In addition, the bill adds the signature of the district director's designee as an alternative to the director's signature that is required on a permit.

**Senate Bill 650**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Cook

Senate Bill 650 amends the Transportation Code to require a metropolitan rapid transit authority confirmed before July 1, 1985, in which the principal municipality has a population of less than one million, to establish a five-year capital improvement plan, capital improvement projects tracking system, strategic plan, rail safety plan, and public improvement policy as prescribed by the bill not later than September 30, 2012. The bill requires such an authority to establish an operating reserve account in a prescribed amount not later than September 1, 2016, and to file a report with the lieutenant governor, the speaker of the house of representatives, and the legislature on the authority's progress in fulfilling this requirement not later than December 31, 2014. The bill requires an authority described by the bill to submit competitive bids for and to purchase certain transit services and requires individuals providing the services to be employees of the authority or under a contract or agreement that complies with the competitive bidding requirements not later than September 1, 2012. The bill requires the board of such an authority to adopt rules not later than September 30, 2012, requiring each major department of the authority to report quarterly on the department's operating expenses and capital improvements. The bill also authorizes an authority described by the bill to issue bonds in a prescribed amount for self-insurance or retirement or pension fund reserves and requires such an authority to continue services until January 1, 2020, to certain persons with disabilities in a unit of election that withdrew from the authority.

**Senate Bill 888**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Harper-Brown

Senate Bill 888 amends the Transportation Code to authorize a regional transportation authority to create a local government corporation.

**Senate Bill 990**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Harper-Brown

Senate Bill 990 amends the Transportation Code to authorize a regional transportation authority to regulate the use of a high occupancy vehicle lane operated, managed, or maintained by the authority. The bill makes it a Class C misdemeanor to fail to pay within a certain time frame a designated penalty in connection with the improper use of such a vehicle lane.

**Senate Bill 1422**  
**Effective:** 9-1-11

**Senate Author:** Nelson et al.  
**House Sponsor:** Solomons

Senate Bill 1422 amends the Transportation Code to authorize a coordinated county transportation authority to enforce fares and other charges and makes it a misdemeanor to use the authority's public transportation system without paying the appropriate fare. Among other provisions, the bill authorizes an authority to assess an administrative fee on an unpaid fare and to employ fare enforcement officers. The bill also increases the amount at or below which an authority contract may be negotiated without competitive sealed bids or proposals.

Senate Bill 1422 adds a subchapter to the Transportation Code to authorize a service plan to be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy if, among other conditions, the municipality has designated a public transportation financing area as prescribed by the bill and entered into an agreement with the authority to provide tax increment payments in exchange for the authority's public transportation services in the area. The bill's financial provisions describe the role of the comptroller under such an agreement, require an accounting of maintenance and operating expenses by the authority, authorize the payment of a capital recovery fee to the authority, and provide for the use of surplus tax increment payment amounts. The bill also prescribes the conditions under which a public transportation financing area may be terminated.

**Senate Bill 1578**  
**Effective:** 6-17-11

**Senate Author:** Williams  
**House Sponsor:** Deshotel

Senate Bill 1578 amends the Transportation Code to authorize the addition of certain counties to a freight rail district. The bill specifies the governing bodies that must approve the addition of such a county to a district and provides for directors to be added to the board of a district for each new county.

## **Water—General**

**House Bill 1814**  
**Effective:** 9-1-11

**House Author:** Lucio III  
**Senate Sponsor:** Lucio

House Bill 1814 amends the Water Code to authorize a water supply or sewer service corporation to provide a water supply to a governmental entity, rather than a municipality, for use in fire suppression and makes related changes. The bill amends the Health and Safety Code to make a provision relating to public safety standards for fire hydrants apply to a municipality

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with a population of more than 36,000 and less than 41,000 located in two counties, one of which is a county with a population of more than 1.8 million.

**House Bill 3002**  
**Effective:** 6-17-11

**House Author:** Hughes  
**Senate Sponsor:** Eltife

Under previous law, certain conservation and reclamation districts with gross receipts not in excess of \$100,000 and with cash and temporary investments not in excess of \$100,000 during a fiscal period could file an annual financial report with the executive director of the Texas Commission on Environmental Quality instead of undertaking and filing a full annual audit. House Bill 3002 amends the Water Code to increase each monetary cap from \$100,000 to \$250,000.

**Senate Bill 333**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** King, Tracy O.

Senate Bill 333 amends the Water Code to set out provisions relating to the qualifications of a member of the board of directors for a water supply or sewer service corporation and to election procedures, and to specify quorum requirements for board meetings.

**Senate Bill 1082**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Laubenberg

Previous law made municipal annexation provisions relating to strategic partnerships for the continuation of certain districts applicable to a water control and improvement district or a municipal utility district. Senate Bill 1082 amends the Local Government Code to make such provisions applicable to a conservation and reclamation district that is not a groundwater conservation district or a special utility district. The bill requires a district or the area of a district annexed for limited purposes under such provisions to be in the municipality's extraterritorial jurisdiction and to be 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. The bill prohibits a municipality from regulating under provisions relating to strategic partnership agreements the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

**Senate Bill 1361**  
**Effective:** 8-29-11

**Senate Author:** Estes  
**House Sponsor:** Hardcastle

Previous law authorized a water district to elect to file annual financial reports with the executive director of the Texas Commission on Environmental Quality in lieu of being required to have an annual audit performed at the expense of the district if, among other conditions, the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$100,000 during the fiscal period and the district's cash and temporary investments were not in excess of \$100,000 at any time during the fiscal period. Senate Bill 1361 amends the Water Code to increase these threshold amounts from \$100,000 to \$250,000.



## Water—Freshwater Supply Districts

### Senate Bill 512

**Effective:** 9-1-11

**Senate Author:** Hegar

**House Sponsor:** Creighton

Senate Bill 512 amends the Water Code to include among eligibility requirements for election to the board of supervisors for a fresh water supply district that a person is a registered voter of that district.

## Water—Groundwater Conservation Districts

### House Bill 801

**Effective:** 5-17-11

**House Author:** Anderson, Charles “Doc” et al.

**Senate Sponsor:** Birdwell

House Bill 801 repeals a temporary provision of the Special District Local Laws Code requiring the boundaries of the Southern Trinity Groundwater Conservation District to include, on September 1, 2011, at least one county adjacent to McLennan County and requiring the Texas Commission on Environmental Quality to dissolve the district if that requirement is not met.

### House Bill 2859

**Effective:** 9-1-11

**House Author:** Gallego

**Senate Sponsor:** Uresti

House Bill 2859 amends the Special District Local Laws Code to create the Terrell County Groundwater Conservation District, coextensive with the boundaries of the county and subject to dissolution if not confirmed by voters before December 31, 2012. The district is prohibited from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose; from exercising the power of eminent domain; and from imposing property taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district. The bill authorizes the district’s board of directors to impose reasonable fees on each well for which a permit is issued by the district and that is not exempt from district regulation; establishes the bases for a production fee; limits the amount of the initial production fee; authorizes such fee to be increased at a certain annual rate; and authorizes the district to assess an export fee on groundwater from a well that is produced for transport outside the district. The district is authorized to issue bonds and notes except that the total indebtedness created by such issuance is capped at \$500,000.

### House Bill 3109

**Effective:** 6-17-11

**House Author:** Craddick

**Senate Sponsor:** Seliger

House Bill 3109 amends the Water Code to require a groundwater conservation district that is created on or after September 1, 1991, 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 and the rights to the water produced from the well are owned by a municipality that has a population of 115,000 or less, rather than a population of 100,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced.

### House Bill 3818

**Effective:** 6-17-11

**House Author:** Geren

**Senate Sponsor:** Harris

House Bill 3818 amends the Special District Local Laws Code to prohibit a production fee assessed by the Northern Trinity Groundwater Conservation District on the amount of



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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.

**Senate Bill 430**  
**Effective:** 9-1-11

**Senate Author:** Nichols  
**House Sponsor:** Christian

Senate Bill 430 amends the Water Code to include a groundwater conservation district among those entities the executive director of the Texas Commission on Environmental Quality must notify, in writing, that usable groundwater has been or is being contaminated, if the contamination has occurred or is occurring in the district's jurisdiction.

**Senate Bill 564**  
**Effective:** 5-28-11

**Senate Author:** Uresti  
**House Sponsor:** Gallego

Senate Bill 564 amends the law to change the date of the directors' election of the Middle Pecos Groundwater Conservation District from the first Saturday in May of each even-numbered year to the uniform election date in November of each even-numbered year.

**Senate Bill 691**  
**Effective:** 9-1-11

**Senate Author:** Estes  
**House Sponsor:** King, Tracy O.

Current law provides an exemption from permitting by a groundwater conservation district for certain wells used for domestic, livestock, and poultry watering purposes. Senate Bill 691 amends the Water Code to clarify the exemption by establishing that a groundwater conservation district is prohibited from requiring any permit issued by the district for 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.

**Senate Bill 692**  
**Effective:** 5-9-11

**Senate Author:** Estes  
**House Sponsor:** Miller, Doug

Senate Bill 692 amends and clarifies Water Code provisions relating to exemptions from groundwater conservation district permit requirements. The bill specifies that a groundwater conservation district is authorized by rule to provide an exemption from the district's requirement to obtain a drilling permit, an operating permit, or any other permit required by provisions relating to groundwater conservation districts or the district's rules. The bill requires a district to provide an exemption from the district requirement to obtain a permit for the drilling or operating of certain wells and the drilling of certain water wells. The bill authorizes a district, under certain conditions, to cancel a previously granted exemption, to require an operating permit for a well, and to restrict production from a well. The bill requires a district to require the owner of a water well to register, equip, and maintain the well as provided by district rules. The bill requires a driller of a well to file with the district a required well log and, if available, the geophysical log and removes a provision limiting a drilling log filing requirement to a driller of an exempt well.

**Senate Bill 693**  
**Effective:** 5-12-11

**Senate Author:** Estes  
**House Sponsor:** Price

Current law requires a hearing relating to a groundwater conservation district permit or permit amendment application to be conducted by a quorum of the district's board of directors or by an individual to whom the board has delegated the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing. Senate Bill 693 amends the Water

Code to include the State Office of Administrative Hearings (SOAH) as an alternative to those entities. The bill authorizes a district to adopt rules for a hearing conducted by SOAH that are consistent with SOAH's procedural rules. A district is required to contract with SOAH to conduct a hearing if requested by the applicant or other party to a contested case. The bill establishes provisions relating to the deadline for a request and the location of a hearing, requires the party requesting the hearing before SOAH to pay all costs associated with the contract for the hearing, and authorizes all other costs to be assessed as authorized by law or by district rules. The board has the authority to make a final decision on consideration of a proposal for decision issued by an administrative law judge in a proceeding for a permit application or amendment in which a district has contracted with SOAH for a contested case hearing. A district is required to adopt rules to establish a procedure for preliminary and evidentiary hearings, to allow the presiding officer, at a preliminary hearing by the district and before a referral of the case to SOAH, to determine a party's right to participate in a hearing, and to set a deadline for a party to file a request to refer a contested case to SOAH.

**Senate Bill 727**  
**Effective:** 4-29-11

**Senate Author:** Seliger  
**House Sponsor:** Beck

Current law requires a groundwater conservation district whose creation required confirmation to submit its management plan to the executive administrator of the Texas Water Development Board for review and approval after its confirmation election and also requires each district located within the boundaries of a management area in which two or more districts are located to forward a copy of the district's new or revised management plan to the other districts. Senate Bill 727 amends the Water Code to require a district to submit the plan not later than three years after its confirmation election and to remove the condition that the plan be forwarded on completion and approval of the plan. The bill also updates references to a district's comprehensive management plan.

**Senate Bill 987**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Kleinschmidt

Previous law allowed a director of the Colorado County Groundwater Conservation District to serve only two consecutive terms and required directors for positions 5 through 7 to reside in the cities of Columbus, Eagle Lake, and Weimar, respectively. Senate Bill 987 amends the Special District Local Laws Code to specify that a district director may serve only two full consecutive terms in the same position and require directors for positions 5 through 7 to reside in Colorado County.

**Senate Bill 1290**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Hunter

Senate Bill 1290 amends the Special District Local Laws Code to create the Calhoun County Groundwater Conservation District, coextensive with the boundaries of Calhoun County and subject to dissolution if not confirmed by voters before December 31, 2016. The district is prohibited from denying the owner of a tract of land, or the owner's lessee, who does not have a well equipped to produce more than 25,000 gallons each day on the tract, either a permit to drill a well on the tract or the privilege to produce groundwater from the tract, subject to district rules. The district is authorized to assist in the mediation between landowners regarding the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others. The district is prohibited from exercising the power of eminent domain. The bill authorizes the district's board of directors to impose a reasonable fee on each well for which a permit is issued by the district and that is not exempt from regulation by the district; establishes

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the bases for the well fee; authorizes the district to impose a reasonable fee or surcharge for an export fee; and establishes that the district is prohibited from imposing a tax and does not have the authority granted by certain provisions applicable to groundwater conservation districts relating to taxes.

**Senate Bill 1895**

**Effective:** 6-17-11

**Senate Author:** Hegar

**House Sponsor:** Morrison

Senate Bill 1895 amends the law to change the date of the directors election for the Texana Groundwater Conservation District from the first Saturday in May of each even-numbered year to the uniform election date in November of each even-numbered year. The bill prohibits the district from exercising the powers granted by statutory groundwater conservation district provisions relating to eminent domain and from contracting with a river authority to perform district functions except as provided by the Interlocal Cooperation Act.

## Water—Miscellaneous Water Districts

**House Bill 960**

**Effective:** 6-17-11

**House Author:** Turner

**Senate Sponsor:** Whitmire

House Bill 960 amends the Special District Local Laws Code to make inapplicable to the Central Harris County Regional Water Authority standard statutory provisions relating to groundwater conservation districts and statutory provisions relating to the disqualification of a director of a water district. The authority is authorized 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 enforce the authority's rules or orders or recover any fees, rates, charges, assessments, collection expenses, attorney's fees, interest, penalties, or administrative penalties due the authority. The bill waives a district's or other political subdivision's governmental immunity from suit or liability for the purposes of an authority action relating to an administrative penalty, civil action, or injunction.

**House Bill 1060**

**Effective:** 6-17-11

**House Author:** Kleinschmidt

**Senate Sponsor:** Hegar

House Bill 1060 requires the board of the Barton Springs-Edwards Aquifer Conservation District, not later than the 30th day after the bill's effective date, to declare by resolution that certain territory in Bastrop County, as described in the bill, is excluded from the district. The bill makes the de-annexation of the territory effective on the date the resolution is recorded in the county records.

**House Bill 1832**

**Effective:** 5-21-11

**House Author:** Ritter

**Senate Sponsor:** Williams

House Bill 1832 updates and amends the law governing the Lower Neches Valley Authority. The bill clarifies the authority of the district over the Neches River basin and the adjoining Neches-Trinity coastal basin, rather than the valleys of the Neches River and its tributaries. The bill entitles a district director to receive a fee of office for each day of service approved by a vote of the board of directors and necessary to discharge the director's duties and requires the board of directors to set the fee in an amount not greater than the amount allowed under general law. The bill establishes that nothing in certain provisions, as amended by the bill, authorizing the district to control and use applicable waters in certain manners and for certain particular purposes is a limitation on the powers of the district expressed elsewhere in law.

The bill removes a provision making it a misdemeanor for a director, engineer, or employee to be directly or indirectly interested in any contract for the purchase or construction of any work by the district. The bill also removes, among other provisions, provisions and requirements relating to:

- the election of officers, the employment of a general manager, and the employment and compensation of employees necessary to properly construct, operate, and maintain certain works and carry out provisions governing the district;
- officer and employee bonds;
- a requirement that directors keep a true and full account of meetings and proceedings;
- a complete book of accounts and an annual audit by a certified public accountant;
- approval of construction contracts and warrants;
- the prohibition on certain service charges being made on the revenues derived from district improvements and facilities as long as obligations issued remain outstanding and unpaid as to principal or interest;
- the right of the district to sue and be sued;
- the presentation and approval of plans and specifications before establishing a diversion point and constructing canals, pumping plants, and certain other works;
- the issuance of obligations, including provisions providing for the creation of a sinking fund; and
- existing rights or existing priorities in the rights to water from the source of supply.

**House Bill 2007**  
**Effective:** 6-17-11

**House Author:** Shelton  
**Senate Sponsor:** Davis

House Bill 2007 amends the law to authorize the Benbrook Water Authority to pay actual property damages caused by a backup of the authority's sanitary sewer system on or after September 1, 2011, regardless of whether the authority would be liable for the damages under the Texas Tort Claims Act. The bill provides that such authorization does not waive governmental immunity from suit or liability.

**House Bill 2418**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Patrick

House Bill 2418 amends the law to establish that the North Harris County Regional Water Authority also includes the territory of the following districts: Harris County Municipal Utility District No. 16, Harris County Municipal Utility District No. 26, Harris County Municipal Utility District No. 233, Richey Road Municipal Utility District, Harris County Water Control and Improvement District No. 109, Inverness Forest Improvement District, and Memorial Hills Utility District. The bill establishes 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 Harris-Galveston Coastal Subsidence District before January 1, 2010, and the property was included in the plan on that date. The bill provides that territory annexed by a local government located in the authority and territory added to the service area of a person owning a water system located in the authority become territory of the authority on the effective date of the annexation or addition, unless the territory is included in another local government's approved groundwater reduction plan as of that effective date. The authority by rule may require the local government or person, as applicable, to send to the authority certain related notice and documents. The bill establishes that the annexation or addition of territory to the authority under provisions relating to the description of authority boundaries does not affect the validity of bonds issued by the authority.

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The bill makes statutory provisions relating to groundwater conservation districts and certain provisions that are applicable to all water districts relating to the disqualification of directors, posting of signs in a district, certain notice procedures, and filing information inapplicable to the authority. The bill also removes a provision providing that a director of the authority serves until the director's successor has qualified. The bill 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 to enforce the authority's rules or orders. Governmental immunity from suit or liability of a district or other political subdivision is waived for the purposes of such actions. The bill repeals provisions relating to temporary directors, a confirmation and initial permanent directors election, and the cost of the confirmation and initial permanent directors election.

**House Bill 3813**  
**Effective:** 6-17-11

**House Author:** Isaac  
**Senate Sponsor:** Wentworth

House Bill 3813 amends the Special District Local Laws Code to add a chapter relating to the Hudson Ranch Water District, which was created by the Hays County Commissioners Court as the Hudson Ranch Fresh Water Supply District No. 1 and which the bill renames. The bill grants the district the powers and duties of a municipal utility district and a fresh water supply district.

**House Bill 3847**  
**Effective:** 6-17-11

**House Author:** Lavender  
**Senate Sponsor:** Eltife

House Bill 3847 amends the Special District Local Laws Code to establish that a member of the Riverbend Water Resources District has immunity from suit and immunity from liability in any action or proceeding brought by another member arising out of or relating to the changes in law made by the bill's provisions. The bill amends provisions relating to the composition of the district's board of directors, the manner of appointment of the directors and director terms, term limits, qualifications, and recall.

House Bill 3847 causes the term of each person who is serving as a director on the board to expire on the bill's effective date and transfers all of the board's powers to a specified temporary administrator for a period ending 180 days after a new board is appointed and the new directors have qualified. The bill requires the district members, not sooner than the 150th day and not later than the 180th day after the bill's effective date, to appoint directors to the board. The bill sets out provisions relating to the temporary administrator's powers and duties, compensation and reimbursement for expenses of the administrator and any person the administrator employs to assist in carrying out the administrator's duties, a process for removing and replacing the administrator, and the administrator's immunity from suit and liability.

House Bill 3847 authorizes the district to enter into a contract or agreement with a person or entity, in addition to a public agency, county, municipality, or other political subdivision, for any purpose relating to the district's powers or functions.

**House Bill 3866**  
**Effective:** 6-17-11

**House Author:** Miller, Doug  
**Senate Sponsor:** Fraser

House Bill 3866 amends the Special District Local Laws Code to change the date of the election of directors of the Hill Country Underground Water Conservation District from the uniform election date in May of each odd-numbered year to the uniform election date in November of each even-numbered year.



**Senate Bill 271**  
**Effective:** 6-17-11

**Senate Author:** Uresti  
**House Sponsor:** Menendez et al.

Previous law provided for a five-member board of directors for the Bexar Metropolitan Water District. Directors served staggered six-year terms and were elected at large on the first Tuesday in April in an applicable year. A director was required to be a qualified resident elector of Bexar County, Texas, and an owner of taxable property in the district. Senate Bill 271 amends the law to provide for a seven-member board of directors. Directors serve staggered two-year terms and are elected from single-member districts in an election held on the uniform election date in November. The bill makes a person ineligible to serve as a director for more than three terms or for more than seven years; requires elections to be held in the manner provided by the Election Code; requires a person appointed to fill a board vacancy to hold office until an elected successor has qualified; requires a director to be a qualified voter of the single-member district from which the director is elected; and prohibits a payment to a director for fees of office from being made for a meeting that occurs in a different fiscal year from the one in which the payment is made.

Senate Bill 271 establishes eligibility requirements for a person to be a candidate for or to be elected or appointed as a director. A director or a candidate for the office of director is prohibited from knowingly accepting from a person political contributions that in the aggregate exceed \$500 in connection with each election in which the person is involved. The bill prohibits a person who is elected or appointed to and qualifies for office as a director from voting, deliberating, or being counted as a member in attendance at a meeting of the board until the person completes a training program on district management issues. The bill provides criteria for the program. The bill authorizes the Texas Commission on Environmental Quality to create an advanced training program designed for a person who has previously completed the training program on district management issues and requires a director to complete either training program at least once a term. The bill requires the board to adopt rules regarding the completion of a training program by a person who is elected or appointed to and qualifies for office as a director before the bill's effective date and requires such a director who does not comply with board rules to be considered incompetent as to the performance of the duties of a director in any action to remove the director from office.

Senate Bill 271 establishes certain prohibitions on a director, requires a director to annually file with the Bexar County clerk a verified financial statement, and requires the district to keep a copy of the statement in the district's main office. The bill sets out the grounds for recalling a director and establishes the procedures for such a recall. The bill requires all board reimbursements and expenditures to be approved by the board in a regularly scheduled meeting and prohibits the board from selecting the same auditor to conduct the required annual audit for more than three consecutive audits.

The bill increases from five to seven the number of members of the Bexar Metropolitan Water District Oversight Committee. The bill includes as members two senators who represent senate districts that include territory within the district, rather than the senator sponsor of the act creating the district or a senator appointed by the lieutenant governor if the sponsor cannot serve, and two representatives who represent house districts that include territory within the district, rather than the author of such act or a representative appointed by the speaker of the house of representatives if the author cannot serve. The bill requires the oversight committee to provide a report regarding the district's ability to meet service and financial standards and legislative changes needed in the district's authority or governance to the legislature on or before December 31, 2012, and abolishes the committee January 1, 2013.



**Senate Bill 341**

**Effective:** See below

**Senate Author:** Uresti et al.

**House Sponsor:** Menendez et al.

Senate Bill 341 requires the board of directors of the Bexar Metropolitan Water District to hold an election in the district solely on the question of whether a majority of the voters voting in the water district support or oppose dissolving the district and disposing of the district's assets and obligations and sets out provisions relating to the order calling the election, notice requirements, and ballot language. The bill provides for an alternative election if any portion of the bill is in violation of the federal Voting Rights Act of 1965 or United States Constitution.

Article 1 amends the law relating to the district to require the Texas Commission on Environmental Quality (TCEQ) to begin an on-site evaluation of the district and sets out evaluation requirements. TCEQ is authorized to employ or contract with a person to carry out the duties relating to the evaluation and sets out applicable qualifications, and to employ or contract with additional people, with the district liable for compensation and expense reimbursement. At TCEQ's request, the state auditor is authorized to audit the district at the district's expense.

Until the date election results are certified to the secretary of state, the attorney general is prohibited from approving any public security of the district, with exception, unless certain conditions are met. Until such date, a contract or other agreement entered into, amended, or renewed to which the district is a party, with exception, is required to include a provision that the contract or other agreement is subject to review and termination by the system, which is defined as a water utility owned by a municipality with a population of more than one million in the area served by the district, and to termination at the system's sole discretion if the contract or other agreement is assumed by the system. Additionally, until such date, the district is prohibited from disposing of, selling, transferring, assigning, impairing, or restricting any of the district's rights or assets outside the normal and customary course of business. Article 1 has immediate effect.

Articles 2 and 2A establish provisions relating to the dissolution election and have immediate effect.

Article 3 takes effect on the date the dissolution election results are certified to the secretary of state if voters do not approve the dissolution. Article 3 increases from five to seven the number of district directors, changes the length of director terms and the directors election date, establishes that directors are elected from single-member districts rather than at large, limits the length of time a person may serve as director, requires directors elections to be conducted as provided by the Election Code, requires a person appointed to fill a board vacancy to hold office until an elected successor has qualified, requires a director to be a qualified voter of the single-member district from which the director is elected, and prohibits a payment to a director for fees of office from being made for a meeting that occurs in a different fiscal year from the one in which the payment is made.

Article 3 increases from five to seven the number of members of the Bexar Metropolitan Water District Oversight Committee by including one additional senator and one additional state representative on the committee. The oversight committee is required to provide a certain comprehensive report to the legislature on or before December 31, 2012, and is abolished January 1, 2013.

Article 3 sets out director eligibility requirements and establishes a cap on political contributions for a director and a candidate for the office of director. Article 3 limits a director's participation on the board until the director completes a training program on district management issues. Article 3 sets out the requirements for the training program. Article 3 establishes director prohibitions, requires a director to file an annual verified financial statement, provides for the recall of a director, requires all board reimbursements and expenditures to be approved by the board in a regularly scheduled meeting, and prohibits the board from selecting the same auditor to conduct a required annual audit for more than three consecutive audits.

Article 3 requires TCEQ to evaluate the condition of the district and determine whether the district has been sufficiently rehabilitated to enable the district to provide reliable, cost-effective, quality service to its customers. TCEQ is authorized to order the district to implement any part of a developed rehabilitation plan if TCEQ finds that the district has not been rehabilitated and to assess an administrative penalty against the district if the district fails to comply with a TCEQ order.

Article 4 takes effect on the date the dissolution election results are certified to the secretary of state if voters approve the dissolution. Article 4 establishes that on such date the term of each director expires and the system assumes control of the operation and management of the district. Article 4 requires TCEQ, in consultation with the oversight committee and by a certain deadline, to transfer or assign to the system all rights and duties of the district; files, records, and accounts of the district; and permits, approvals, and certificates necessary to provide water services. Article 4 requires TCEQ to enter an order dissolving the district after the transfer.

Article 4 requires the system to integrate the services and infrastructure of the district into the system in a reasonable and orderly manner not later than five years after the date the election results are certified, with a possible TCEQ extension of not more than three additional years. Article 4 requires the system, during the integration period, to provide an annual integration report to TCEQ and authorizes the system to operate the former district as a special project under the system's existing senior lien revenue bond ordinances. Article 4 requires the system to provide affordable and reliable water services to all of the former ratepayers of the district under the system's certificate of convenience and necessity once TCEQ has transferred the assets, obligations, and duties to the system. Article 4 requires the system, after the integration is complete, to provide water service to former ratepayers of the district in the same manner the system provides water service to other system ratepayers; establishes the conditions under which the integration is considered complete; and authorizes TCEQ to impose a penalty if the system fails to integrate the services and infrastructure of the district into the system. The system, during specified periods following the transfer of employment of an employee of the former district, is prohibited from terminating an employee of the former district, except for cause, if the employee meets certain conditions.

Article 4 requires the system to work cooperatively with the commissioners court of each county in which the former district was wholly or partly located to establish an advisory committee to advise the system regarding the integration of the services and infrastructure of the former district in specific areas or water systems located in the area outside the corporate boundaries of the largest municipality served by the system, and sets out related provisions.

**Senate Bill 580**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Morrison

Senate Bill 580 amends the law to authorize the Lavaca-Navidad River Authority to sponsor and participate in an economic development program within its territorial boundaries or water service area. The bill sets forth certain requirements and authorizations for such a program.

**Senate Bill 683**  
**Effective:** 6-17-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Bonnen

Senate Bill 683 amends the law to increase from seven to nine the number of directors on the board of the Gulf Coast Water Authority. The bill requires one of the additional directors to be appointed by the Commissioners Court of Fort Bend County and the other by the Commissioners Court of Brazoria County and requires each of those directors to represent authority customers in the appointing county. The directors must be recommended by such customers and reside in the

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county. The bill requires a vacancy on the board to be filled by appointment by the commissioners court that appointed the director.

In addition, the bill specifies that the Mainland Municipal Advisory Committee is composed of one representative of each municipal or water district customer of the authority that contracts for, rather than uses, not less than two million gallons of water a day.

**Senate Bill 832**  
**Effective:** 9-1-11

**Senate Author:** Rodriguez et al.  
**House Sponsor:** Quintanilla

Senate Bill 832 amends the Special District Local Laws Code to make an individual eligible to vote in an election of the El Paso County Water Improvement District No. 1 only if the individual is 18 years of age or older, is a United States citizen, holds title to or an interest in title to irrigable land within district boundaries, and receives and uses irrigation water delivered by the district through the district's canal system. The bill requires an eligible individual, in order to vote in a district election, to register with the district not later than the 30th day before the date on which the election is held.

**Senate Bill 914**  
**Effective:** 5-9-11

**Senate Author:** Wentworth  
**House Sponsor:** Miller, Doug

Current law prohibits a water district from issuing bonds unless the Texas Commission on Environmental Quality determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. Senate Bill 914 amends the Water Code to include as an entity exempt from that prohibition a conservation and reclamation district that includes territory in at least three counties and has the rights, powers, privileges, and functions applicable to a river authority under the Regional Waste Disposal Act.

**Senate Bill 978**  
**Effective:** Vetoed

**Senate Author:** Hinojosa  
**House Sponsor:** Gonzales, Veronica

Senate Bill 978 establishes procedures for the dissolution of the Hidalgo County Water Improvement District No. 3 that apply to the district and a municipality that has a population greater than 100,000 and contains within its boundaries more than half of the district's territory. The bill authorizes such a municipality to adopt an ordinance as prescribed by the bill allowing the municipality to accept a transfer of the district's obligations, liabilities, and assets, and it provides that the district is dissolved on the later of the effective date of the bill or the date that a transfer ordinance takes effect. The dissolution procedures also provide for a petition by voters, suspension or repeal of an ordinance, and an election.

Reason Given for Veto: "Senate Bill 978 would allow the entire City of McAllen and members of Hidalgo County Water Improvement District No. 3 to vote for the dissolution of the district. This bill puts the district at a clear disadvantage because the overwhelming majority of votes would come from outside the boundaries of the district, effectively allowing the city to take the district's water rights and property. This would set a troubling precedent."

**Senate Bill 1225**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Isaac

Senate Bill 1225 sets out procedures and deadlines by which land in Caldwell County that is included in the territory of both the Gonzales County Underground Water Conservation District and the Plum Creek Conservation District is disannexed from one of the districts. An owner of land that is included in both districts is required to elect from which district the owner wants the land disannexed, or, if an owner does not make such an election, the land will be disannexed by the Gonzales County Underground Water Conservation District.

**Senate Bill 1492**  
**Effective:** 5-28-11

**Senate Author:** Uresti  
**House Sponsor:** Hilderbran

Senate Bill 1492 amends the law on the election of directors of the Real-Edwards Conservation and Reclamation District to set out provisions relating to the expiration of a director's term of office and eligibility requirements to be a candidate for director of a specified position or an at-large position. The bill removes provisions specifying certain election notice requirements and requiring a director to be above the age of 21 years.

**Senate Bill 1920**  
**Effective:** 6-17-11

**Senate Author:** Gallegos  
**House Sponsor:** Eiland

Senate Bill 1920 amends the law to authorize the Coastal Water Authority to participate in a wetland mitigation program and to expand the types of parks the authority may provide. The bill authorizes the authority to contract with a private or public entity to purchase, 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. The authority is authorized 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 and is also authorized 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. The proceeds of the bonds or notes may be used to fund any authorized purpose of the authority or any joint project with the participating governmental entity.

## **Water—Municipal Utility Districts**

**House Bill 315**  
**Effective:** 6-17-11

**House Author:** Flynn  
**Senate Sponsor:** Deuell

House Bill 315 amends the Special District Local Laws Code to create the Hunt County Municipal Utility District No. 1, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a development agreement with the City of Greenville, water and wastewater facilities and services, annexation by the city, rail facilities, division of the district, a debt refinancing limit, and dissolution of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 709**  
**Effective:** 6-17-11

**House Author:** Fletcher  
**Senate Sponsor:** Patrick

House Bill 709 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 524, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

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**House Bill 886**  
**Effective:** 9-1-11

**House Author:** Smith, Wayne  
**Senate Sponsor:** Gallegos

House Bill 886 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 528, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 1756**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson et al.

House Bill 1756 amends the Special District Local Laws Code to create the Pilot Knob Municipal Utility District No. 2, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 1757**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson et al.

House Bill 1757 amends the Special District Local Laws Code to create the Pilot Knob Municipal Utility District No. 1, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 1758**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson et al.

House Bill 1758 amends the Special District Local Laws Code to create the Pilot Knob Municipal Utility District No. 3, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 1759**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson

House Bill 1759 amends the Special District Local Laws Code to create the Pilot Knob Municipal Utility District No. 4, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.



**House Bill 1760**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson

House Bill 1760 amends the Special District Local Laws Code to create the Pilot Knob Municipal Utility District No. 5, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

**House Bill 1932**  
**Effective:** 6-17-11

**House Author:** Schwertner  
**Senate Sponsor:** Ogden

House Bill 1932 amends the Special District Local Laws Code to grant the Williamson-Liberty Hill Municipal Utility District the power to undertake certain road projects, subject to certain requirements. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 2162**  
**Effective:** 6-17-11

**House Author:** Kuempel  
**Senate Sponsor:** Wentworth

House Bill 2162 amends the Special District Local Laws Code to grant the Cibolo Creek Municipal Authority the rights, powers, duties, and obligations of an issuer under Government Code public securities provisions relating to obligations for certain public improvements. The bill makes provisions relating to the authority of the Texas Commission on Environmental Quality over the issuance of bonds by a water district inapplicable to the Cibolo Creek Municipal Authority.

**House Bill 2238**  
**Effective:** 9-1-11

**House Author:** Creighton  
**Senate Sponsor:** Nichols

House Bill 2238 amends the Special District Local Laws Code to establish that the Montgomery County Municipal Utility District No. 112 has the powers and duties provided by the general law of the state applicable to municipal utility districts. The bill makes inapplicable to the Montgomery County Municipal Utility District No. 112 a provision of law authorizing a city to provide in its written consent for the inclusion of land in a municipal utility district that a contract between the district and the city be entered into before the first issue of bonds, notes, warrants, or other obligations of the district.

**House Bill 2360**  
**Effective:** 6-17-11

**House Author:** Schwertner  
**Senate Sponsor:** Ogden

House Bill 2360 amends the Special District Local Laws Code to create the Corn Hill Regional Water Authority, initially composed of the Sonterra Municipal Utility District and the CLL Municipal Utility District No. 1. The bill grants the authority the powers and duties of a municipal utility district, but it prohibits the authority from providing wastewater, drainage, solid waste disposal, or road facilities or services and provides that the authority does not have any power that its member entities do not have. The authority may issue bonds or other obligations payable from revenue of the authority's water system but is prohibited from imposing a tax.



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**House Bill 2363**  
**Effective:** 6-17-11

**House Author:** Flynn  
**Senate Sponsor:** Deuell

House Bill 2363 amends the Special District Local Laws Code to create the Bearpen Creek Municipal Utility District of Hunt County, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for the acquisition of certain permit rights and for the dissolution of the district by city ordinance. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 2809**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 2809 amends the Special District Local Laws Code to authorize the board of directors of the Greater Texoma Utility Authority, if changes in plans or specifications are necessary after performance of a construction contract begins, 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. The bill prohibits the total cost of the change orders from increasing the original contract price by more than 25 percent.

**House Bill 3743**  
**Effective:** 6-17-11

**House Author:** Workman  
**Senate Sponsor:** Watson

House Bill 3743 amends the law to establish that the West Travis County Municipal Utility District No. 5 has all of the rights, powers, privileges, authority, functions, and duties relating to road districts and road utility districts and to supply and distribution facilities or systems to provide potable and nonpotable water to the residents and businesses of Travis and Hays Counties but prohibits the district from constructing, acquiring, maintaining, or operating a toll road. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 3803**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 3803 amends the Special District Local Laws Code to create the Cottonwood Municipal Utility District No. 2 of Grayson County, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects, makes the district eligible to be included in a tax increment reinvestment zone, and provides for annexation of the district by the City of Dorchester and for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 3814**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Wentworth

Current law authorizes a city to provide in its written consent for the inclusion of land in a municipal utility district that an allocation agreement between the district and the city be entered into before the first issue of bonds, notes, warrants, or other obligations of the district. House Bill 3814 amends the Special District Local Laws Code to exempt the Travis-Creedmoor Municipal

Utility District from that provision of law and to authorize the district to negotiate its bond sales according to terms and procedures determined by its board of directors.

**House Bill 3840**  
**Effective:** 6-17-11

**House Author:** Parker  
**Senate Sponsor:** Nelson

House Bill 3840 amends the Special District Local Laws Code to change from September 1, 2011, to September 1, 2015, the date on which the Tradition Municipal Utility District No. 2 of Denton County is dissolved if the creation of the district is not confirmed at a confirmation election before such date. The bill establishes that temporary directors of the district serve until the fourth anniversary of the date of appointment, if earlier than the date initial directors are elected. The bill, if initial directors have not been elected and the terms of the temporary directors have expired, requires successor temporary directors to be appointed or reappointed to serve terms that expire on the earliest of the date initial directors are elected, the fourth anniversary of the date of the appointment or reappointment, or the date the statutory chapter relating to the district expires if the creation of the district is not confirmed at a confirmation election. The bill, if successor temporary directors are necessary, provides for the appointment by the Texas Commission on Environmental Quality of five successor temporary directors named in a petition submitted by the owner or owners of a majority of the assessed value of the real property in the district.

**House Bill 3845**  
**Effective:** 6-17-11

**House Author:** Sheffield  
**Senate Sponsor:** Ogden

House Bill 3845 amends the Special District Local Laws Code to grant the CLL Municipal Utility District No. 1 the power to undertake certain road and improvement projects, grant the district municipal management district powers and certain development corporation powers, provide for a district airport, and prohibit district toll roads. The bill authorizes the district, subject to certain requirements, to issue obligations, levy assessments, and impose property, sales and use, and hotel occupancy taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility and from exercising the power of eminent domain for an improvement project.

**House Bill 3862**  
**Effective:** 6-17-11

**House Author:** Smith, Wayne  
**Senate Sponsor:** Whitmire

House Bill 3862 amends the Special District Local Laws Code to establish that temporary directors of the Harris County Municipal Utility District No. 510 serve until the fourth anniversary of the effective date of the statutory chapter relating to the district if earlier than the date initial directors are elected. The bill, if initial directors have not been elected and the terms of the temporary directors have expired, requires successor temporary directors to be appointed or reappointed to serve terms that expire on the earlier of the date initial directors are elected or the fourth anniversary of the appointment or reappointment. The bill, if successor temporary directors are necessary, provides for the appointment by the Texas Commission on Environmental Quality of five successor temporary directors named in a petition submitted by the owner or owners of a majority of the assessed value of the real property in the district. The bill repeals a provision dissolving the district on September 1, 2011, if the creation of the district is not confirmed before that date.

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**House Bill 3864**  
**Effective:** 6-17-11

**House Author:** Gooden  
**Senate Sponsor:** Deuell

House Bill 3864 amends the Special District Local Laws Code to create the Lazy W District No. 1, a municipal utility district, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects; authorizes the district to develop and manage parks, recreational facilities, and natural science laboratories and to promote the preservation of fish and other wildlife in the district; and establishes powers regarding contracts and rules. The bill authorizes the district, subject to certain requirements, to issue obligations; establish fees, rates, and charges; and impose special assessments and property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain outside the district.

**Senate Bill 475**  
**Effective:** 6-17-11

**Senate Author:** Patrick  
**House Sponsor:** Fletcher

Senate Bill 475 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 524, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**Senate Bill 629**  
**Effective:** 6-17-11

**Senate Author:** Hegar et al.  
**House Sponsor:** Isaac

Senate Bill 629 amends the Special District Local Laws Code to add territory to the Ranch at Clear Fork Creek Municipal Utility District No. 1 and require voter approval and municipal consent to confirm the creation of the district. The bill grants the district the power to undertake certain road projects and provides for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose a property tax. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**Senate Bill 630**  
**Effective:** 5-9-11

**Senate Author:** Hegar et al.  
**House Sponsor:** Isaac

Senate Bill 630 amends the Special District Local Laws Code to add territory to the Ranch at Clear Fork Creek Municipal Utility District No. 2 and require voter approval and municipal consent to confirm the creation of the district. The bill grants the district the power to undertake certain road projects and provides for division of the district. The bill authorizes the district, subject to certain requirements, to issue obligations and impose a property tax. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**Senate Bill 768**  
**Effective:** 6-17-11

**Senate Author:** Watson  
**House Sponsor:** Dukes

Senate Bill 768 amends the Special District Local Laws Code to create the Rio de Vida Municipal Utility District No. 1, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for tax abatement reinvestment zones, economic development activities, mass grading and improvement projects, division of the district, and municipal annexation and dissolution.

The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, contract, sales and use, and hotel occupancy taxes. The bill prohibits the district from exercising the power of eminent domain.

**Senate Bill 813**  
**Effective:** 9-1-11

**Senate Author:** Gallegos  
**House Sponsor:** Smith, Wayne

Senate Bill 813 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 528, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**Senate Bill 1877**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Isaac

Senate Bill 1877 amends the Special District Local Laws Code to create the Oatman Hill Municipal Utility District, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**Senate Bill 1880**  
**Effective:** 6-17-11

**Senate Author:** Huffman  
**House Sponsor:** Howard, Charlie

Senate Bill 1880 amends the Special District Local Laws Code to specify the nature of the Imperial Redevelopment District, a municipal utility district in Fort Bend County; provide legislative intent; and amend and establish related findings of benefit and public purpose.

The bill establishes that a sports and community venue facility is considered to be a park and recreational facility; provides for the district to undertake certain municipal management district projects and services; authorizes the district to exercise the powers given to a Type B development corporation; authorizes the district's board of directors to authorize the creation of a nonprofit corporation for an authorized project or service; authorizes the district to join and pay dues to a charitable or nonprofit organization to further a district purpose; authorizes the district to engage in activities that accomplish district economic development purposes; provides for district economic development programs; and provides for the acquisition of parking facilities and a sports and community venue facility by the district.

Previous law authorized the district, subject to voter approval, to impose an annual property tax for the provision of services or for the maintenance and operation of the district. In lieu of a property tax, the bill authorizes the district, subject to voter approval, to impose an operation and maintenance tax on taxable property in the district for any district purpose and makes a certain limitation on such a tax for recreational facilities levied by a district located in certain counties inapplicable to the district.

The bill authorizes the district to impose contract taxes. The bill sets out provisions relating to district money used for improvements or services, a required petition for financing services and improvements with assessments, and a certain method of notice for an assessment hearing. The bill authorizes the board to impose and collect an assessment for any authorized purpose in all or any part of the district and sets out related provisions. The bill authorizes the district

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to designate reinvestment zones and to grant abatements of a tax or assessment on property in the zones. The bill authorizes the district to issue bonds or other obligations from assessments or contract payments to pay for any authorized district purpose and makes the limitation on the outstanding principal amount of bonds, notes, and other obligations provided by provisions relating to district bonds for recreational facilities in certain counties inapplicable to the district.

The bill revises provisions relating to district taxes for bonds and other obligations. The bill makes a municipal management district provision requiring Texas Commission on Environmental Quality (TCEQ) approval regarding bonds for water, sewage, or drainage facilities applicable to the district.

The bill prohibits the district from exercising a power granted by certain provisions of the bill until the governing body of the City of Sugar Land consents to the power. The bill repeals certain provisions relating to bonds for joint road project contract costs, to certain authority of TCEQ over issuance of district bonds, and to the exemption of the district from provisions of law relating to bonds for county roads.

### **Senate Bill 1913**

**Effective:** 6-17-11

**Senate Author:** Watson et al.

**House Sponsor:** Rodriguez

Senate Bill 1913 amends the Special District Local Laws Code to create the Southeast Travis County Municipal Utility District No. 1, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

### **Senate Bill 1914**

**Effective:** 6-17-11

**Senate Author:** Watson et al.

**House Sponsor:** Rodriguez

Senate Bill 1914 amends the Special District Local Laws Code to create the Southeast Travis County Municipal Utility District No. 2, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain.

### **Senate Bill 1915**

**Effective:** 6-17-11

**Senate Author:** Watson et al.

**House Sponsor:** Rodriguez

Senate Bill 1915 amends the Special District Local Laws Code to create the Southeast Travis County Municipal Utility District No. 3, subject to voter approval at a confirmation election and municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

### **Senate Bill 1916**

**Effective:** 6-17-11

**Senate Author:** Watson et al.

**House Sponsor:** Rodriguez

Senate Bill 1916 amends the Special District Local Laws Code to create the Southeast Travis County Municipal Utility District No. 4, subject to voter approval at a confirmation election and



municipal consent. The bill grants the district the power to undertake certain road projects and provides for a strategic partnership agreement and municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain.

## **Water—Special Utility Districts**

### **Senate Bill 1875**

**Effective:** 9-1-11

**Senate Author:** Hinojosa

**House Sponsor:** Munoz, Jr.

Previous law prohibited a director of the Agua Special Utility District from serving consecutive terms. Senate Bill 1875 amends the Special District Local Laws Code to prohibit a director from serving more than two consecutive terms. The bill clarifies that an appointment as an initial director constitutes one term and that a person who was appointed as an initial director is eligible to serve as an elected director. The bill prohibits the district from disconnecting service of a customer for late payment before the 11th day, rather than the 31st day, after the date the district notifies the customer of the overdue payment.

## **Water—Water Control and Improvement Districts**

### **House Bill 1383**

**Effective:** 6-17-11

**House Author:** Quintanilla

**Senate Sponsor:** Uresti

House Bill 1383 amends the law to set out in detail the territory of the El Paso County Water Control and Improvement District No. 4.

### **House Bill 1551**

**Effective:** 5-17-11

**House Author:** Aycock

**Senate Sponsor:** Fraser

House Bill 1551 amends the Special District Local Laws Code to authorize the Bell County Water Control and Improvement District No. 1 to issue bonds for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, enlarging, or extending any district works, improvements, facilities, plants, equipment, and appliances needed or useful to accomplish or carry out the purposes, powers, functions, or obligations of the district, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, or solid waste disposal system.

House Bill 1551 authorizes the district, in order to provide for the payment of issued bonds, to impose property taxes on all taxable property in the district; pledge all or any part of revenue available to the district from any source; or pledge any combination of these sources of taxes or revenue. Bonds secured by and payable solely from pledged revenue may be issued without an election, and such bonds are not subject to provisions relating to Texas Commission on Environmental Quality authority over the issuance of district bonds. The bill restricts the requirement for the district to hold an election to obtain voter approval for the imposition of property taxes or the issuance of bonds payable from such taxes. The bill authorizes the district to exercise any of the rights or powers granted to the governing body of an issuer of obligations for certain public improvements.

House Bill 1551 establishes that its provisions are wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the

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performance of other authorized acts and procedures by the district without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by the bill's provisions.

**House Bill 1944**  
**Effective:** 5-17-11

**House Author:** Hilderbran  
**Senate Sponsor:** Uresti

House Bill 1944 amends the Special District Local Laws Code to require the Crockett County Water Control and Improvement District No. 1 to hold its directors election on the uniform election date in November of each even-numbered year. The election may be held at any location that is in the boundaries of the district and Crockett County.

**House Bill 3111**  
**Effective:** 6-17-11

**House Author:** Craddick  
**Senate Sponsor:** Seliger

House Bill 3111 amends the Special District Local Laws Code to create the Midland County Utility District, a water control and improvement district, subject to municipal and voter approval. The bill authorizes the district to issue bonds or other obligations and provides for the imposition of voter-approved property, operation and maintenance, and contract taxes. The district is required to begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date district voters approve the issuance of bonds to provide for the development of the water system. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility, in the corporate or extraterritorial jurisdictional limits of a municipality in which the district is located, or outside the county.

The bill amends the Local Government Code to increase the maximum population of 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, under which provisions of law relating to adjoining landowner fees for financing capital improvements apply.

**House Bill 3821**  
**Effective:** 6-17-11

**House Author:** Eiland  
**Senate Sponsor:** Huffman

House Bill 3821 amends the Special District Local Laws Code to establish that the temporary directors of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County serve until the fourth anniversary of the effective date of the statutory chapter relating to the district, if earlier than the date initial directors are elected. The bill, if initial directors have not been elected and the terms of the temporary directors have expired, requires successor temporary directors to be appointed or reappointed to serve terms that expire on the earlier of the date initial directors are elected or the fourth anniversary of the appointment or reappointment. The bill, if successor temporary directors are necessary, provides for the appointment by the Texas Commission on Environmental Quality of five successor temporary directors named in a petition submitted by the owner or owners of a majority of the assessed value of real property in the district. The bill repeals a provision dissolving the district on September 1, 2011, if the creation of the district is not confirmed before that date.

**Senate Bill 684**  
**Effective:** 4-29-11

**Senate Author:** Huffman et al.  
**House Sponsor:** Howard, Charlie

Senate Bill 684 establishes a temporary provision set to expire September 1, 2013, providing that, 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 the Fort Bend County Water Control and

Improvement District No. 1, all assets, debts, and contractual rights and obligations of the district are property of the city and the district is dissolved.

**Senate Bill 942**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Lucio III

Senate Bill 942 amends the Special District Local Laws Code to create the Lakeway Regional Medical Center Defined Area in the Travis County Water Control and Improvement District No. 17. The bill grants the district the power to undertake certain road projects for the defined area. The bill authorizes the district, for the defined area and subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility for the defined area.

**Senate Bill 1140**  
**Effective:** 5-28-11

**Senate Author:** Watson  
**House Sponsor:** Hartnett

Senate Bill 1140 amends the Water Code to authorize a water control and improvement district to pay actual property damages caused by a backup of the district's sanitary sewer system on or after September 1, 2011, regardless of whether the district would be liable for the damages under the Texas Tort Claims Act. The bill provides that such authorization does not waive governmental immunity from suit or liability.

**The summaries for the following bills are in the listed chapters:**

House Bill 444 - Environment  
 House Bill 1901 - Water  
 House Bill 1917 - Local Government  
 House Bill 2325 - Government Purchasing  
 House Bill 2947 - Open Government and Privacy  
 Senate Bill 303 - Human Services  
 Senate Bill 313 - Water  
 Senate Bill 332 - Water  
 Senate Bill 470 - Open Government and Privacy  
 Senate Bill 569 - Water  
 Senate Bill 737 - Water



# State Government

This chapter covers legislation on state agencies, assets, commemorations, and fiscal management, as well as legislation on public lands and the development, use, and public availability of electronic information in state government. Legislation relating to state purchasing is in the **Government Purchasing** chapter, and legislation relating to open government is in the **Open Government and Privacy** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 265**

**Effective:** 9-1-11

**House Author:** Hilderbran

**Senate Sponsor:** Birdwell

Current law authorizes the Texas Facilities Commission to lease space for a state agency if state-owned space is not available and the agency has money available to pay for the lease and to delegate to a state agency the authority to enter into lease contracts for space. House Bill 265 amends the Government Code to require the Texas Facilities Commission, in determining whether state-owned space is available, to consider all reasonably available state-owned space in Texas, regardless of whether utilizing the available space would require a move to a different location in the state. The bill also conditions the commission's delegation of authority to enter into lease contracts for space on a determination by the commission that state-owned space is not available.

### **House Bill 266**

**Effective:** 9-1-11

**House Author:** Hilderbran

**Senate Sponsor:** Duncan

House Bill 266 amends the Government Code to require a state agency to use address-matching software that meets certain certification standards adopted by the United States Postal Service for the preparation of bulk mailings and to require an agency that contracts with a provider for bulk mailing services to include in the contract a requirement that the provider use software that meets or exceeds those standards.

House Bill 266 amends the Transportation Code to require the Department of Public Safety to use software that meets those standards to verify and match addresses of driver's license holders to United States Postal Service delivery addresses and to require any department contracts for bulk mailing services to require the use of software that meets or exceeds those standards.

### **House Bill 326**

**Effective:** 6-17-11

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 326 amends the Government Code to require a state agency subject to abolishment under the Texas Sunset Act, before September 1 of the odd-numbered year before the year in which the agency is abolished, to submit to the Sunset Advisory Commission, the governor, the lieutenant governor, and each member of the legislature a report that lists each report the agency is required by law to prepare and that evaluates the need for each report based on whether factors or conditions have changed since the date the statutory requirement to prepare the report was enacted.

### **House Bill 335**

**Effective:** Vetoed

**House Author:** Shelton et al.

**Senate Sponsor:** Birdwell et al.

House Bill 335 amends the Government Code to require a state agency to submit a report of an expenditure incurred in implementing a federal health care reform law if the Legislative



Budget Board determines that such a report is necessary or if the law requires a person to purchase health care insurance or an employer to provide coverage to employees, imposes a penalty on an employer who does not provide health insurance to employees, expands Medicaid or state child health plan program eligibility, imposes a coverage mandate on a person, or creates a new state-administered health insurance program.

Reason Given for Veto: "House Bill 335 would require state agencies to submit a report relating to the implementation and requirements of federal health care reform laws. While Texas should make every effort to assess the impact of federal legislation on the state, I do not think the mandate required by House Bill 335 is necessary, as this information would be available upon request of state leadership. As such, I will be working with state leaders to direct state agencies to provide information necessary to assess the impact of overreaching federal health care legislation on Texas."

**House Bill 726**  
**Effective:** 6-17-11

**House Author:** Sheffield  
**Senate Sponsor:** Huffman

Under current law, a state agency is required to notify each member of the legislature, before distributing a publication relating to the work of the agency, to determine whether the member wants to receive the publication and is required to notify each member when a report required by law is ready for distribution. House Bill 726 amends the Government Code to require that those notifications be sent electronically and to authorize a member choosing to receive a publication to notify the agency electronically of that choice.

**House Bill 1129**  
**Effective:** 6-17-11

**House Author:** Kolkhorst  
**Senate Sponsor:** Hegar

House Bill 1129 requires the attorney general to conduct a study to determine whether Texas law or the legislative authority of the Texas Legislature is or may be directly affected by any of a variety of governmental agreements with various foreign entities. The bill requires the attorney general to investigate and report whether any of the foreign entities has attempted to directly affect Texas law or policy or the authority of any state or local governmental body in Texas. The bill requires the attorney general, not later than December 1, 2012, to prepare a report of the findings of the study.

**House Bill 1147**  
**Effective:** 9-1-11

**House Author:** Smith, Wayne  
**Senate Sponsor:** Wentworth

House Bill 1147 amends the Government Code to require a state or local governmental entity to include on a geospatial data product that is created or hosted by the entity, appears to represent property boundaries, and was not produced using information from an on-the-ground survey by a qualified land surveyor a specified notice advising that the product may not be suitable for legal, engineering, or surveying purposes. The bill exempts certain geospatial data products from the requirement.

**House Bill 1245**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Birdwell

House Bill 1245 amends the Government Code to repeal the statutory authorization to establish a superconducting super collider facility research authority.

**House Bill 1781**  
**Effective:** 6-17-11

**House Author:** Price et al.  
**Senate Sponsor:** Nelson

House Bill 1781 amends the Education, Family, Government, Health and Safety, and Tax Codes and repeals provisions in the Family, Government, Health and Safety, and Local Government Codes in order to eliminate requirements that the attorney general and other state

agencies compile and submit certain reports and lists, that certain governmental entities submit certain reports and certifications to the attorney general, and that the attorney general conduct a public awareness campaign concerning certain prescription drug solicitations.

House Bill 1781 amends the Government Code to require the executive director of each state agency to examine the agency's reporting requirements established by state statute and identify each reporting requirement that the executive director determines is not necessary to accomplish the objectives of the statute containing the reporting requirement, is redundant of other statutory reporting requirements, or is required under statute to be provided at a frequency for which data is not available. The bill requires the executive director to provide to certain elected officials and agencies an electronic report that includes each statutory reporting requirement for which the executive director made such a determination and the justification for the determination. The bill requires the Sunset Advisory Commission and its staff to consider the extent to which the purpose and effectiveness of reporting requirements imposed on an agency under sunset review justify the continuation of the requirement.

**House Bill 1808**  
**Effective:** 9-1-11

**House Author:** Cook  
**Senate Sponsor:** Nichols

House Bill 1808 amends the Agriculture Code to continue the State Soil and Water Conservation Board until September 1, 2023. In addition to adding and revising statutes that reflect across-the-board sunset provisions, the bill requires the state board to take certain administrative actions relating to its competitive grant programs.

House Bill 1808 redesignates the state board's Texas Brush Control Program as the water supply enhancement program and specifies that the program's purpose is to increase available surface water and groundwater through controlling, removing, or reducing noxious brush species that are detrimental to water conservation and then revegetating that land. The bill requires the state board to define specific goals for the program, develop criteria for accepting proposals for water supply enhancement projects, and establish criteria for prioritizing projects for each funding cycle. For projects using certain water yield models, the state board must establish a process for assisting persons submitting project proposals by locating a person with appropriate credentials to conduct a feasibility study for the project. The bill provides for cost-sharing contracts as part of the water supply enhancement program and requires the state board to consult with each successful applicant for such a contract to create a 10-year water supply enhancement plan for the land that is subject to the contract. The bill requires the Sunset Advisory Commission to conduct a special-purpose review of the state board as part of the commission's review of state agencies for the 84th Legislature.

House Bill 1808 amends the Government Code to authorize the state board to accept and administer loans, grants, gifts, or other funds to carry out its functions as administrator of the Texas Invasive Species Coordinating Committee.

**House Bill 2131**  
**Effective:** 5-30-11

**House Author:** Geren et al.  
**Senate Sponsor:** Eltife

House Bill 2131 amends the Government Code to provide for the issuance of a pass for expedited access to the State Capitol and the Capitol Extension. The bill requires the Department of Public Safety (DPS) to allow a person with a Capitol access pass to enter in the same manner as DPS allows entry to a person who presents a concealed handgun license. To be eligible for a Capitol access pass, the person must meet the eligibility requirements applicable to a license to carry a concealed handgun, other than requirements regarding evidence of handgun proficiency. The bill requires DPS to adopt rules to establish a procedure by which a Texas resident may apply for and be issued a Capitol access pass.

**House Bill 2549**  
**Effective:** 9-1-11

**House Author:** Crownover  
**Senate Sponsor:** Estes

House Bill 2549 amends the Government Code to entitle a charitable historical organization to participate in a state employee charitable campaign as an eligible charitable organization. A state employee or retiree participating in a campaign is required to designate an eligible charitable organization to receive the employee's or retiree's deductions. The bill changes the composition of, and other provisions relating to, the state employee charitable campaign policy committee and subjects the committee to the open meetings law, public information law, and Texas Sunset Act.

**House Bill 2702**  
**Effective:** 9-1-11

**House Author:** Solomons  
**Senate Sponsor:** Eltife

House Bill 2702 amends various laws to update population categories to reflect new census population data. To the extent that another law enacted by the 82nd Legislature, Regular Session, 2011, conflicts with House Bill 2702, the other law prevails.

**House Bill 3255**  
**Effective:** 6-17-11

**House Author:** Strama et al.  
**Senate Sponsor:** Van de Putte

House Bill 3255 amends the Government Code to require the state demographer to adhere to current standards of practice when determining which racial/ethnic groups to include in estimates and projections and to provide, on request, information that justifies the omission of any particular racial/ethnic group from estimates and projections.

**House Bill 3395**  
**Effective:** 6-17-11

**House Author:** Callegari  
**Senate Sponsor:** Lucio

House Bill 3395 amends the Government Code to require state agencies and the comptroller of public accounts to give preference to recycled, remanufactured, or environmentally sensitive products in state purchases if, in addition to the product meeting state specifications regarding quantity and quality, the average price of the product is not more than 10 percent greater than the price of comparable nonrecycled products. The bill establishes that a state agency is not required to purchase paper containing recycled fibers if the average price of such paper exceeds by more than 10 percent the price of comparable nonrecycled paper.

House Bill 3395 amends the Government Code to authorize the Department of Information Resources to publish on a state Internet website residential and business telephone directories published by a telecommunications utility or a private for-profit publisher that include information relating to TexasOnline and telephone numbers for state elected officials, state agencies, and state public services. The bill amends the Utilities Code to authorize a telecommunications provider or telecommunications utility to publish on the provider's or utility's Internet website a telephone directory or directory listing instead of providing printed directories or listings. The bill requires the provider or utility to provide to a customer for free on request one print or digital copy of the directory or listing.

**House Bill 3616**  
**Effective:** 9-1-11

**House Author:** Naishtat et al.  
**Senate Sponsor:** Ellis et al.

House Bill 3616 amends the Government Code to designate October as Persons with Disabilities History and Awareness Month.

**Senate Bill 258**  
**Effective:** 6-17-11

**Senate Author:** Hegar et al.  
**House Sponsor:** Zerwas

Senate Bill 258 amends the Government Code to add the phrase “one state under God” to the pledge of allegiance to the Texas state flag that is encouraged for public use during an official retirement ceremony for the state flag.

**Senate Bill 792**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Branch

Senate Bill 792 amends the Government Code, in a provision requiring the secretary of state to keep a register of all state officers, to remove the specification that the register be kept in a separate suitable book. The bill requires the secretary of state to make available to each county clerk the annual compilation of a list of states or territories within the United States that require an official seal for certain documents, rather than requiring the secretary of state to send the list to each county clerk, and requires the secretary of state to amend the list and make the amended list available to the county clerks if the secretary of state learns that a state or territory has changed its requirements in a manner that requires an addition to or deletion from the list.

**Senate Bill 899**  
**Effective:** 9-1-11

**Senate Author:** Ogden et al.  
**House Sponsor:** Schwertner

Current law prohibits the attorney general or other attorney representing the state from entering into a settlement of a claim or action against the state without the legislature’s consent or approval if the settlement requires the state to pay total monetary damages in an amount that exceeds \$25 million in a state fiscal biennium or that commits the state to a continuing increased expenditure of state funds over subsequent bienniums. Senate Bill 899 amends the Civil Practice and Remedies Code to change the threshold amount to \$10 million.

**Senate Bill 1303**  
**Effective:** See below

**Senate Author:** West  
**House Sponsor:** King, Tracy O.

Senate Bill 1303, a continuation of the legislature’s ongoing statutory revision program, conforms the Estates Code and additions to the Transportation Code, Natural Resources Code, and Special District Local Laws Code enacted by the 81st Legislature to other acts of the 81st Legislature. The bill makes various other nonsubstantive additions and corrections to enacted codes. Article 8 of the bill, excluding Sections 8.024 and 8.025, takes effect January 1, 2014. Those sections and other articles of the bill take effect September 1, 2011.

**Senate Bill 1928**  
**Effective:** 9-1-11

**Senate Author:** Ellis et al.  
**House Sponsor:** Allen

Senate Bill 1928 amends the Government Code to require the State Preservation Board to establish an African American Texans memorial monument on the State Capitol grounds that pays tribute to the contributions of African Americans to the State of Texas. The bill repeals the statutory provisions that create the Texas Emancipation Juneteenth Cultural and Historical Commission and require the commission to establish the Juneteenth memorial monument.

## Agencies

**House Bill 1844**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Watson

House Bill 1844 amends the Government Code to expand the services the director and librarian of the Texas State Library and Archives Commission is authorized to provide relating to local government records to include the storage of such records by the state records center. The commission is required to establish fees for the storage service in an amount sufficient to cover the costs of the service.

**House Bill 2139**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 2139 amends the Government Code to authorize the Texas State Library and Archives Commission to establish or to assist other state agencies or organizations in establishing an Adopt-A-Library program to encourage investment in and donations to public libraries in Texas. The commission may use any cash, gift, grant, donation, or in-kind contribution that it receives from a public or private entity through the program to assist the commission or public libraries in Texas in the establishment, provision, improvement, or expansion of library services. The bill requires the commission to provide information about the program on the commission's Internet website and provides for the program's eligibility as a charitable organization for purposes of participation in the state employee charitable campaign.

**House Bill 2251**  
**Effective:** 6-17-11

**House Author:** Bonnen  
**Senate Sponsor:** Whitmire

House Bill 2251 amends the Government Code to continue the Texas Public Finance Authority until September 1, 2023, and to add standard across-the-board provisions relating to the development of a written, comprehensive plan that encourages the use of alternative procedures for agency rulemaking and internal and external disputes.

House Bill 2251 removes Stephen F. Austin State University from those entities on whose behalf the authority has the exclusive authority to act in issuing bonds and authorizes the authority, under an agreement with the Texas State Technical College System or a general academic teaching institution, to act on behalf of that system or such an institution in issuing bonds on the system's or institution's behalf.

House Bill 2251 authorizes the distribution of funds to a grant recipient for a multiyear project awarded by the Cancer Prevention and Research Institute of Texas Oversight Committee on the authority's certification that obligations in an amount sufficient to pay the money needed to fund the project have been authorized for issuance by the authority and approved by the Bond Review Board.

House Bill 2251 amends the Health and Safety Code to require the Cancer Prevention and Research Institute of Texas Oversight Committee to specify the total amount of money approved to fund the multiyear project and amends the Education Code to make a conforming change relating to the removal of Stephen F. Austin State University from the authority's exclusive jurisdiction to issue bonds on the university's behalf.

**House Bill 2499**  
**Effective:** Vetoed

**House Author:** Cook  
**Senate Sponsor:** Nichols

House Bill 2499 amends the Government Code to continue the Department of Information Resources (DIR) until September 1, 2017, and to incorporate across-the-board sunset provisions.



The bill transfers the statewide program for purchasing information and communications technology services and products from DIR to the comptroller of public accounts and requires the Sunset Advisory Commission to evaluate the transfer of the powers and duties for presentation to the 84th Legislature.

House Bill 2499 requires DIR governing board members to have expertise in specified areas and changes the composition of the board's ex officio membership. The board is required to appoint an internal auditor, establish a board audit subcommittee, appoint a customer advisory committee, and adopt a policy describing the board's role in setting DIR's strategic direction. The bill requires the board to define what constitutes a major outsourced contract and to establish approval requirements for all other contracts and requires DIR to create a management plan for each major outsourced contract.

DIR must establish procedures to determine administrative fees charged to administer its programs, develop criteria for the appropriate use of consultants and outside staff, develop a method of measuring costs and progress of an information resources technology consolidation initiative, provide, on request, technical assistance to a state agency, and establish contract management policies, procedures, and training. House Bill 2499 exempts from data center consolidation the databases or networks managed by the Department of Agriculture, the General Land Office, and a state agency in the judicial branch of state government.

Reason Given for Veto: "House Bill 2499, the Department of Information Resources sunset bill, contains a number of substantive changes to the operation of the agency, including important ones, such as the hiring of an internal auditor.

"However, House Bill 2499 seems to ignore the progress DIR's new leadership has made in improving agency operations and efficiencies. The bill also undermines executive branch authority by removing a single state agency from data center consolidation, removing qualified and hardworking board members from their positions without cause, and removing DIR's important procurement function during the ongoing re-procurement of data services.

"I do not take lightly the impact this veto could have on the future of important state information resources functions. Therefore, I have asked the legislature to include legislation during the ongoing special session to extend DIR operations through 2017.

"I also request DIR to closely examine the Sunset Commission report, as well as House Bill 2499, to help implement additional operational improvements, and to work closely with its agency customers and experts in the Office of the Comptroller of Public Accounts and office of the Attorney General, to constantly improve procurement efficiency and effectiveness."

**House Bill 2632**  
**Effective:** 6-17-11

**House Author:** Driver  
**Senate Sponsor:** Wentworth

House Bill 2632 amends the Government Code to entitle the Texas Facilities Commission to obtain criminal history record information from the Department of Public Safety relating to an employee or an applicant for employment with the commission; a consultant, intern, or volunteer for the commission or an applicant for such a position; a person who proposes to enter into a contract with or has a contract with the commission to perform services for or supply goods to the commission; or a subcontractor, employee, or applicant for employment of a contractor that provides services to the commission.

**House Bill 2769**  
**Effective:** 6-17-11

**House Author:** Frullo  
**Senate Sponsor:** Wentworth

House Bill 2769 amends the Government Code to authorize the Texas Facilities Commission to solicit, contract for, receive, accept, or administer gifts, grants, and donations of money or property from any source for any lawful public purpose related to the commission.



**House Bill 3278**  
**Effective:** 6-17-11

**House Author:** Shelton  
**Senate Sponsor:** Shapiro

House Bill 3278 amends the Government Code, the Health and Safety Code, the Human Resources Code, and the Occupations Code to remove the Texas Education Agency (TEA), the agency head, the agency head's designee, or an agency representative, as applicable, from membership or participation in the following entities:

- the interagency work group on border issues;
- the Interagency Coordinating Council for HIV and Hepatitis;
- the Council on Cardiovascular Disease and Stroke;
- the Texas Diabetes Council;
- the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments;
- the interagency work group created to implement the action plan adopted at the 1994 Supported Employment Summit; and
- the Auctioneer Education Advisory Board.

House Bill 3278 amends the Education Code to establish that the TEA is not required to participate in the Advisory Committee on Reducing Drug Demand but is not prohibited from such participation.

House Bill 3278 amends the Government Code to remove the TEA from the state agencies whose chief administrative officers are required to designate an agency employee to liaison for faith- and community-based organizations.

**House Bill 3333**  
**Effective:** 9-1-11

**House Author:** Pena  
**Senate Sponsor:** Hegar

House Bill 3333 amends the Government Code to authorize the governor to order the Department of Information Resources (DIR) to disconnect a computer network used by a state agency or another entity receiving network security services from DIR from the Internet in the event of a substantial external threat to the computer network.

**House Bill 3404**  
**Effective:** 9-1-11

**House Author:** Naishtat  
**Senate Sponsor:** Watson

House Bill 3404 amends the Government Code to revise the membership of the child care advisory committee that advises the Texas Facilities Commission on the location, size, design, and curriculum of child-care facilities for state employees to remove the representative of the corporate child development fund. The bill abolishes the committee on September 1, 2021.

**House Bill 3726**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Van de Putte

House Bill 3726 amends the Natural Resources Code to establish that the Alamo complex is under the jurisdiction of the General Land Office (GLO) and that the GLO is responsible for the preservation, maintenance, and restoration of the Alamo complex and its contents and the protection of its historical and architectural integrity. The bill repeals provisions designating the Daughters of the Republic of Texas as the caretakers of certain Alamo property and relating to the purchase, care, and preservation of the Alamo.

House Bill 3726 authorizes the GLO to participate in establishing and partnering with a qualifying nonprofit organization that will raise funds or provide benefits for the preservation and maintenance of the Alamo complex and to contract with the organization for the performance of any activity. The GLO is required to enter into an agreement with the Daughters of the Republic

of Texas for the management, operation, and financial support of the Alamo complex under specified terms and conditions, and all property received by the Daughters of the Republic of Texas in its capacity as custodian or trustee of the Alamo for the benefit of the Alamo is subject to the requirements of the bill's provisions and the agreement. If the GLO and the Daughters of the Republic of Texas have not entered into such an agreement before January 1, 2012, the bill provides for the transfer of certain powers and duties, funds, equipment and property, and records relating to the Alamo complex from the Daughters of the Republic of Texas to the GLO on that date and the continued performance of functions and activities related to the Alamo by the Daughters of the Republic of Texas until that date.

House Bill 3726 requires the GLO to employ staff necessary to preserve and maintain the Alamo complex, to contract for professional services of qualified consultants, and to prepare an annual budget and work plan for the complex and authorizes the GLO to consult with the State Preservation Board in the performance of such duties. The bill establishes the Alamo complex account and authorizes the GLO to accept certain donations to carry out any purpose related to the preservation and maintenance of the Alamo complex. All such proceeds, as well as appropriations to the GLO relating to the Alamo complex, are to be deposited to the credit of the account and used only to administer the bill's provisions. The bill authorizes the GLO to create an Alamo Preservation Advisory Board for specified purposes relating to the Alamo complex and provides for the board's composition, presiding officer, and qualifications for membership.

**Senate Bill 247**  
**Effective:** 6-8-11

**Senate Author:** Shapiro et al.  
**House Sponsor:** Hochberg

Senate Bill 247 amends the Government Code to authorize the Texas Holocaust and Genocide Commission to provide matching grants to assist in the implementation of the commission's goals and objectives and to participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the commission.

**Senate Bill 652**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Bonnen

Senate Bill 652 amends statutes relating to the sunset review process for certain governmental and quasi-governmental entities.

The Sunset Advisory Commission is required to perform a limited-purpose review of the Windham School District as part of its review of the Texas Department of Criminal Justice for the 83rd Legislature, to evaluate the tax division of the State Office of Administrative Hearings and present a report on that evaluation to the 84th Legislature, and, in preparation for the 83rd Legislature, to perform a limited review of a state agency that it previously reviewed in preparation for the 82nd Legislature and whose abolition date was changed to 2013. Senate Bill 652 subjects regional education service centers to sunset review and subjects the following entities to sunset review but not abolishment: an independent organization certified by the Public Utility Commission of Texas to perform certain market structure functions; the Port of Houston Authority of Harris County, Texas; and the process server review board. The board of directors of the official citrus producers' pest and disease management corporation is removed from specific sunset review.

Senate Bill 652 changes the following sunset dates for the following entities:

- from 2011 to 2013: Railroad Commission of Texas and Public Utility Commission of Texas;

## State Government

- from 2015 to 2013: Texas Higher Education Coordinating Board, Texas Ethics Commission, Texas Windstorm Insurance Association, Texas Board of Professional Engineers, and Texas Board of Architectural Examiners;
- from 2013 to 2015: Finance Commission of Texas, office of banking commissioner, office of savings and mortgage lending commissioner and Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, Health and Human Services Commission, Texas Health Services Authority, Department of State Health Services, Department of Family and Protective Services, Texas Council for Developmental Disabilities, Governor’s Committee on People with Disabilities, Department of Assistive and Rehabilitative Services, Texas Council on Purchasing from People with Disabilities, Department of Aging and Disability Services, Texas Workforce Commission, and State Securities Board;
- from 2013 to 2017: licensed court interpreter advisory board, Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Physical Therapy Examiners, Texas Board of Occupational Therapy Examiners, and Texas Board of Orthotics and Prosthetics;
- from 2015 to 2017: Court Reporters Certification Board, State Bar of Texas, Board of Law Examiners, and State Board of Dental Examiners;
- from 2013 to 2019: Texas Veterans Commission;
- from 2015 to 2019: Department of Public Safety of the State of Texas, adjutant general’s department, Texas Commission of Licensing and Regulation and Texas Department of Licensing and Regulation, Texas Funeral Service Commission, Texas Board of Professional Geoscientists, Texas Board of Professional Land Surveying, Texas State Board of Plumbing Examiners, and Texas Department of Motor Vehicles;
- from 2017 to 2019: School Land Board;
- from 2015 to 2021: Texas Economic Development and Tourism Office and Office of State-Federal Relations;
- from 2017 to 2021: Texas Guaranteed Student Loan Corporation;
- from 2019 to 2021: Texas Animal Health Commission and Prepaid Higher Education Tuition Board;
- from 2011 to 2023: Office of Public Utility Counsel; and
- from 2013 to the sunset date for the State Soil and Water Conservation Board: Texas Invasive Species Coordinating Committee.

**Senate Bill 781**  
**Effective:** 6-17-11

**Senate Author:** Carona  
**House Sponsor:** Cook

Senate Bill 781 repeals provisions of the Insurance Code establishing the property and casualty insurance legislative oversight committee; provisions of the Utilities Code establishing the electric utility restructuring legislative oversight committee and the telecommunications competitiveness legislative oversight committee; and provisions of the Government Code requiring the Department of Information Resources to adopt rules relating to the vulnerability testing of network hardware and software.

**Senate Bill 1000**  
**Effective:** 9-1-11

**Senate Author:** Eltife et al.  
**House Sponsor:** Geren et al.

Senate Bill 1000 amends the Occupations Code to establish that the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board are self-directed and

semi-independent and to set out provisions relating to the agency's transfer to that status. The bill also sets out provisions relating to the powers and duties of the agency and its operation and administration. The bill requires the agency to relocate to state-owned office space by a specified date and makes an appropriation that is subject to repayment.

**Senate Bill 1068****Effective:** 6-17-11**Senate Author:** Ellis**House Sponsor:** Guillen

Senate Bill 1068 amends the Government Code to authorize the Texas Facilities Commission to lease excess parking spaces in a state-owned parking lot or garage located in the city of Austin either individually to an individual or in a block to an institution of higher education or a local government. The commission is required to ensure that such leases do not restrict private, commercial uses for those lots or garages outside of business hours developed under other law.

**Senate Bill 1179****Effective:** 6-17-11**Senate Author:** Nelson**House Sponsor:** Harper-Brown

Senate Bill 1179 amends the Agriculture Code, Alcoholic Beverage Code, Education Code, Family Code, Government Code, Health and Safety Code, Human Resources Code, Insurance Code, Labor Code, Natural Resources Code, Occupations Code, Parks and Wildlife Code, Transportation Code, Utilities Code, Water Code, Texas Racing Act, and other general law to eliminate certain reporting requirements for certain executive, legislative, and local governmental entities and certain private entities, junior colleges, and institutions of higher education. In addition, the bill repeals provisions relating to reports required by abolished agencies and reports that, under the terms of those provisions, are no longer required to be produced.

**Senate Bill 1338****Effective:** 6-17-11**Senate Author:** Eltife**House Sponsor:** Geren

Senate Bill 1338 amends provisions of the Government Code relating to the powers and duties of the State Preservation Board. The bill requires a proposal to construct a building, monument, or other improvement in the Capitol Complex to be submitted to the State Preservation Board for its review and comment at the earliest planning stages of any such project, rather than before contracts for construction are executed.

The bill requires the board to use gifts of property made to the board for the purpose specified by the grantor and authorizes the board to refuse a gift if in the board's judgment the purpose specified by the grantor conflicts with the goal of preserving the historic character of the buildings under the board's control. It also authorizes the board to transfer money from the capital renewal trust fund to any account of the Capitol fund and only for the purpose of maintaining and preserving the Capitol, the General Land Office, their contents, and their grounds. Further, in setting the amount of a deposit for the use of the Capitol or Capitol grounds, the board is authorized to include indirect costs to the state.

Senate Bill 1338 authorizes the board to establish, maintain, and participate in the operation of one or more organizations of persons whose purpose is to raise funds for or provide services or other benefits to the board and authorizes such an organization to be incorporated as a Texas nonprofit corporation.

**Senate Bill 1518****Effective:** 6-17-11**Senate Author:** Eltife**House Sponsor:** Guillen

Senate Bill 1518 amends the Government Code to entitle the Texas Historical Commission to obtain certain criminal history record information relating to a person who is or is applying to be a commission employee, volunteer, or intern or who is a contractor or subcontractor for

the commission. The bill prohibits the commission from obtaining such information without first adopting policies and procedures that provide that certain aspects of the information do not automatically disqualify an individual from obtaining a position or contract with the commission. It prohibits the information from being released or disclosed except under certain conditions and provides for the collection and destruction of the information after its use. The bill prohibits the disclosure of personal information of a customer who purchases products, licenses, or services from the commission, with exceptions; requires the commission by rule to adopt policies relating to the release, use, and sale of the information; and provides for immunity of the commission and its officers and employees from civil liability for an unintentional disclosure of such information.

Senate Bill 1518 provides for the commission's acquisition of certain historic sites; the solicitation, receipt, and transfer of donated land for public purposes; and the sale or exchange of land. The bill requires the commission by rule to adopt policies to govern fund-raising activities by commission employees on behalf of the commission. It sets out provisions relating to the commission's operation of historic sites, including its authority to contract for certain types of services; to lease land or an improvement that is part of a historic site; to lease grazing rights and to harvest and sell certain products grown on a historic site; to establish fees for entering, reserving, or using a historic site; and to operate or grant contracts to operate concessions on such sites. The commission's executive director is authorized to waive entrance fees and facility use fees for historic sites under its jurisdiction for a volunteer and to use certain appropriated funds to establish an insurance program to protect volunteers in the performance and recognition of their service. The bill establishes the commission's authority to provide or sell information about historic sites to the public, authorizes the commission to apply to participate in or receive aid from certain federal programs relating to historic sites and structures, and sets out provisions for financing the operation, maintenance, and improvement of historic sites. The bill provides for the commission's adoption of rules governing the health, safety, and protection of persons and property in historic sites under the commission's control and makes it a Class C misdemeanor to violate such a rule.

Senate Bill 1518 amends provisions of the Parks and Wildlife Code to authorize the Parks and Wildlife Department to cooperate with the commission to locate, designate, and suitably mark certain historic spots in Texas as historic sites, rather than authorizing the department to take such actions.

## **Electronic Information**

**House Bill 610**  
**Effective:** 9-1-11

**House Author:** Zerwas et al.  
**Senate Sponsor:** Seliger

Current law authorizes the Texas Commission on Environmental Quality (TCEQ) to use electronic means of transmission of information such as notices, orders, and decisions. House Bill 610 amends the Water Code to make such authorization notwithstanding any other law. The bill requires TCEQ to use electronic means of transmission for any notice issued or sent by TCEQ to a state senator or representative, unless the senator or representative has requested to receive notice by mail.

**House Bill 1504**  
**Effective:** 6-17-11

**House Author:** Munoz, Jr. et al.  
**Senate Sponsor:** Hinojosa

House Bill 1504 amends the Code of Criminal Procedure, Education Code, Government Code, Health and Safety Code, Transportation Code, and Utilities Code to replace statutory references to "TexasOnline" and "TexasOnline Internet website" with "state electronic Internet



portal” and to replace statutory references to “TexasOnline project” with “state electronic Internet portal project.”

**House Bill 2866**  
**Effective:** 6-17-11

**House Author:** Harper-Brown  
**Senate Sponsor:** Ellis

House Bill 2866 amends the Government Code to create a temporary provision, expiring in 2015, to authorize the attorney general to charge and collect a nonrefundable administrative convenience fee for the electronic submission of a document to the attorney general.

House Bill 2866 establishes that when a statutory provision relating to attorney general decisions requires a document to be given to the attorney general within a specified period, the requirement is met if the document is submitted through the attorney general’s designated electronic filing system within that period. The bill authorizes the attorney general to transmit a document electronically and establishes that when the attorney general is required to deliver a document within a specified period, the requirement is met if the document is electronically transmitted within that period.

**Senate Bill 701**  
**Effective:** 9-1-11

**Senate Author:** Watson  
**House Sponsor:** Strama et al.

Senate Bill 701 amends the Government Code to require a state agency to post on its Internet website each high-value data set created or maintained by the agency, if the agency can do so at no additional cost to the state.

**Senate Bill 791**  
**Effective:** 9-1-11

**Senate Author:** Duncan  
**House Sponsor:** Jackson

Under previous law, when the Supreme Court of Texas promulgates rules of civil procedure or amendments to rules, the secretary of state is required to mail a copy of the rules or amendments to each elected member of the legislature, and when a state agency files notice of a proposed rule with the secretary of state, the agency is required to deliver a copy of the notice to the lieutenant governor and the speaker of the house of representatives. Senate Bill 791 amends the Government Code to instead require the secretary of state, when a written request is made by a legislative recipient, to provide the requestor with electronic notification of the rules, amendments, or filings.

**Senate Bill 1618**  
**Effective:** 9-1-11

**Senate Author:** Seliger et al.  
**House Sponsor:** Craddick

Senate Bill 1618 amends the Education Code to require a school district, notwithstanding any other law, to submit only in electronic format all reports required to be submitted to the Texas Education Agency. The bill amends the Government Code to require a state agency to submit only in electronic format reports that are required to be submitted to the legislature and the Sunset Advisory Commission. The bill requires the Sunset Advisory Commission, when reviewing an agency, to consider the purpose and effectiveness of a reporting requirement imposed on the agency and to make a recommendation regarding the continuation or abolition of the requirement.

## **Fiscal Management and Auditing**

**House Bill 442**  
**Effective:** 9-1-11

**House Author:** Guillen et al.  
**Senate Sponsor:** Williams

House Bill 442 amends the Government Code to establish the emergency radio infrastructure account in the general revenue fund, consisting of criminal conviction fees and all interest



attributable to money in the account. The bill authorizes the appropriation of money in the account to the Department of Public Safety, limits the use of the money to certain specified public safety purposes, and exempts the account from provisions regarding the use of dedicated revenue.

House Bill 442 amends the Local Government Code to replace the fugitive apprehension account with the emergency radio infrastructure account as a recipient of a percentage of criminal conviction fees and to revise the minimum percentages of those fees that must be allocated to certain accounts and funds.

**House Bill 2226**  
**Effective:** 6-17-11

**House Author:** Truitt  
**Senate Sponsor:** Carona

House Bill 2226 amends Government Code provisions relating to authorized investments for governmental entities to require 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 and the liquidation of such investments consistent with existing requirements for the liquidation of investments that do not have the required minimum rating. The bill clarifies the intervals at which the investment officer, treasurer, or chief financial officer of a state agency, local government, or other governmental entity, as applicable, is required to attend a mandatory investment training session. The bill includes obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States among the authorized investments for a governmental entity and expands the conditions under which an investment in certificates of deposit and a fully collateralized repurchase agreement are considered authorized investments.

House Bill 2226 authorizes an investment pool in which a governmental entity has invested to invest its funds in money market mutual funds to the extent permitted by and consistent with applicable statutory provisions and the investment policies and objectives adopted by the investment pool. The bill requires the pool, as a condition of the pool's continued eligibility to receive funds from and invest funds on behalf of a governmental entity, to include a statement regarding the calculation of yield when reporting the pool's yield and expense ratio to the entity's investment officer or other authorized representative. The bill requires a public funds investment pool created to function as a money market mutual fund, as a condition of such eligibility, to report yield to investors in accordance with regulations of the federal Securities and Exchange Commission; requires an investment pool to post information in a disclosure instrument or report on its website, if applicable; and requires an investment pool that offers fee breakpoints based on fund balances invested to include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested when advertising investment rates. The bill removes an alternative to the minimum rating requirement for a public funds investment pool.

**Senate Bill 367**  
**Effective:** 6-17-11

**Senate Author:** Ogden  
**House Sponsor:** Cook

Senate Bill 367 amends the Government Code to require the attorney general to review an invoice submitted to a state agency under a contract between the agency and outside counsel for legal services to determine whether the invoice is eligible for payment and to require an attorney or law firm to pay an administrative fee for such a review when entering into such a contract.

**Senate Bill 1421**  
**Effective:** 9-1-11

**Senate Author:** Nelson  
**House Sponsor:** Schwertner et al.

Senate Bill 1421 amends the Health and Safety Code to include interest or proceeds from securities and equity ownership among the benefits the state may collect under the intellectual

property agreement to which any grant award provided by the Cancer Prevention and Research Institute of Texas is subject. The bill also adds provisions to protect the confidentiality of specified information submitted by a grant applicant.

## Public Lands

**House Bill 1235**  
**Effective:** 6-17-11

**House Author:** Schwertner  
**Senate Sponsor:** Ogden

House Bill 1235 requires the Texas Department of Transportation (TxDOT), not later than December 31, 2011, to transfer certain real property in Williamson County to the Parks and Wildlife Department (TPWD) and provides a description of the property. The consideration for the transfer is the requirement that TPWD use the property only for a public park, and ownership of the property automatically reverts to TxDOT if TPWD no longer uses the property for that purpose. The bill sets out requirements for the instrument of transfer used by TxDOT to transfer the property.

**House Bill 1449**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 1449 amends the Parks and Wildlife Code to authorize the Parks and Wildlife Commission to grant, lease, or renew permanent or temporary right-of-way easements on Parks and Wildlife Department land for public highways, roads and streets, and ditches; electric lines and pipelines; electrical substations; equipment stations, vaults, cabinets, poles, power pedestals, and equipment used in the provision of communication services; or for providing utilities for the operation of department facilities and roadways for access to those facilities. The bill prohibits the commission from granting or leasing an easement unless the commission receives the fair market value as consideration for the grant or lease, with certain exceptions, and provides that consideration for an easement may include goods and services. A grant or lease must contain a full reservation of minerals in and under the land, and the commission may impose other fair and reasonable conditions, covenants, and provisions.

House Bill 1449 amends the Natural Resources Code to make state laws authorizing a board for lease to grant right-of-way easements on certain public land inapplicable to land owned by the department on which an easement may be granted under the bill's provisions.

**House Bill 2004**  
**Effective:** 6-17-11

**House Author:** Bonnen  
**Senate Sponsor:** Jackson

House Bill 2004 requires the Texas Board of Criminal Justice, not later than December 31, 2011, to sell the real property in Brazoria County described in the bill's provisions if the board receives a bid of at least \$5.5 million for the property. The bill provides for the sale of the property and the negotiation and closing of the property transaction by the General Land Office on behalf of the board according to procedures under certain state laws and provides for the exclusion of the property's mineral interests in the sale.

**House Bill 2258**  
**Effective:** 6-17-11

**House Author:** Deshotel  
**Senate Sponsor:** Williams

House Bill 2258 amends the law to authorize the parties involved in the transfer of certain real property from the Health and Human Services Commission, the Department of State Health Services, or the Department of Aging and Disability Services to Spindletop MHMR Services to amend or supplement the agreement after the transfer takes effect to authorize a transfer or

lease of the property or portion of the property to a charitable organization exempted under the federal Internal Revenue Code of 1986 that primarily provides health care services. The bill limits the type of charitable organization to which a lease of property may be made for a term of 20 years or more. The bill requires Spindletop MHMR Services to retain a payment resulting from the transfer or lease, sets out requirements relating to the use of that money, and establishes requirements relating to the use of the property as a condition of the property's conveyance.

**House Bill 2518**

**Effective:** 6-17-11

**House Author:** Kolkhorst

**Senate Sponsor:** Ogden

House Bill 2518 requires the Texas Board of Criminal Justice, not later than January 1, 2012, to transfer to the board of regents of The Texas A&M University System certain real property in the city of Huntsville. The bill requires the board of regents to use the transferred property only for the use and benefit of the Texas Forest Service and automatically reverts ownership of the property to the Texas Board of Criminal Justice if the board of regents uses the property for any other purpose.

**Senate Bill 514**

**Effective:** 6-17-11

**Senate Author:** Birdwell et al.

**House Sponsor:** Anderson, Charles "Doc" et al.

Senate Bill 514 repeals a provision of the Education Code authorizing the Texas State Technical College System board of regents to accept or acquire by purchase in the name of the state land and facilities in Cameron, Potter, Harrison, and Nolan Counties, subject to the governor's approval.

**Senate Bill 1058**

**Effective:** 6-17-11

**Senate Author:** Nichols

**House Sponsor:** White et al.

Senate Bill 1058 requires the Department of Aging and Disability Services (DADS) to transfer to the Angelina and Neches River Authority real property as described by the bill, including improvements to the property but excluding mineral interests, for the management of water resources. Ownership of the property automatically reverts to DADS if the authority fails to use the property for such purpose for more than 180 continuous days.

**The summaries for the following bills are in the listed chapters:**

House Bill 328 - Taxes and Tax Administration

House Bill 654 - Taxes and Tax Administration

House Bill 1075 - Emergency Response

House Bill 1951 - Insurance

House Bill 2425 - Courts

Senate Bill 1 (1st C.S.) - Appropriations and State Finance

## Taxes and Tax Administration

This chapter covers legislation on issues relating to taxation, including the hotel occupancy, property, and sales and use taxes. It also contains legislation relating to the appraisal of real property and appraisal appeal. Legislation relating to tax incentives for economic development is in the **Economic Development** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 328**

**Effective:** 9-1-11

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 328 amends the Tax Code to update the Internet address listing links relating to acquiring licenses, permits, and registrations from the State of Texas that is provided in a statement that the comptroller of public accounts must include on each application for a state tax permit or license issued by the comptroller.

#### **House Bill 654**

**Effective:** 9-1-11

**House Author:** Solomons

**Senate Sponsor:** Shapiro

House Bill 654 amends the Government Code to require the comptroller of public accounts to report to the legislature and the governor on the aggregate total amount of revenue remitted to the comptroller in each municipality and county for each tax collected by the comptroller if that information is available from tax returns and to publish the report on the comptroller's Internet website not later than the 20th day after the date the comptroller provides the report to the legislature and the governor.

#### **House Bill 2104**

**Effective:** 9-1-11

**House Author:** Jackson

**Senate Sponsor:** West

House Bill 2104 amends the Tax Code to set the minimum amount of the bond for county taxes that a person elected or appointed as county assessor-collector must give to the county commissioners court before undertaking the duties of office at \$2,500. The bill authorizes the commissioners court of a county with a population of 1.5 million or more to set the maximum amount of the bond in an amount greater than \$100,000, as an exception to the existing \$100,000 cap on the amount of such a bond, and clarifies that the bond for county taxes must be approved by the commissioners court to be effective.

#### **House Bill 2338**

**Effective:** 9-1-11

**House Author:** Paxton et al.

**Senate Sponsor:** Birdwell

House Bill 2338 amends the Tax Code to require the county assessor-collector for each county that maintains an Internet website to post on the county website certain tax rate information for the most recent five tax years beginning with the 2012 tax year for each taxing unit having territory in the county. The bill requires each taxing unit to provide the relevant information to the county assessor-collector each year following the unit's adoption of a tax rate for the current year, requires the information posted on the website to be presented in the form of a table under the heading "Truth in Taxation Summary," and requires the county assessor-collector to post immediately below the table a description of each tax rate presented in the table.

The bill requires the comptroller of public accounts by rule to prescribe the manner in which the tax rate information is required to be presented.

**House Bill 2383**  
**Effective:** 6-17-11

**House Author:** Geren  
**Senate Sponsor:** Harris

House Bill 2383 amends the Tax Code to require the Legislative Budget Board to conduct a study of the costs and benefits to the state of reenacting the tax credit for research and development activities that was in effect before its repeal by the 78th Legislature, 3rd Called Session, 2006, and of the types of research and development incentives available in other states. The bill authorizes the board to seek the assistance of other state agencies in conducting the study but requires the study to be completed using existing resources available to the board and any assisting agencies. Results of the study must be reported to the legislature not later than January 1, 2013.

**House Bill 2387**  
**Effective:** 6-17-11

**House Author:** Menendez  
**Senate Sponsor:** Lucio

House Bill 2387 amends the Tax Code to authorize an appraisal district's board of directors to employ a general counsel to the district to serve at the will of the board, limiting the chief appraiser's hiring authority to employing personnel other than a general counsel.

**House Bill 2476**  
**Effective:** 1-1-12

**House Author:** Harless et al.  
**Senate Sponsor:** Eltife

House Bill 2476 amends the Tax Code to include the total lease and rental payments received during a tax year by a heavy equipment dealer in determining the sales price of an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of that same tax year for the purpose of calculating the property tax on the market value of the dealer's heavy equipment inventory. The bill requires an owner of heavy equipment, for purposes of prepayment of taxes by heavy equipment dealers, to assign a unit property tax on each item of heavy equipment leased or rented and to collect the unit property tax from the lessee or renter at the time the lessee or renter pays for the lease or rental.

The bill, in provisions establishing penalties for a dealer's failure to file or timely file a declaration of the dealer's heavy equipment inventory with the chief appraiser or to file a tax statement with the tax collector, authorizes, rather than requires, the appropriate district attorney, criminal district attorney, or county attorney to collect the penalty in the name of the collector; alternately authorizes the chief appraiser to collect the penalty in the name of the chief appraiser; and authorizes either the chief appraiser or such attorney to sue to enforce compliance. The bill authorizes the court to award attorney's fees to a chief appraiser or attorney who prevails in a suit to collect a penalty or enforce compliance.

The bill authorizes a dealer to apply to the chief appraiser for a refund of the unit property tax paid on a fleet transaction sale and sets out provisions relating to the chief appraiser's action on a refund application. The bill reduces from 3,000 pounds to 1,500 pounds the minimum weight for classification of heavy equipment and repeals provisions making it a misdemeanor offense for a dealer to fail to file a declaration of the dealer's heavy equipment inventory or tax statement.

**House Joint Resolution 63**  
**For Election:** 11-8-11

**House Author:** Pickett  
**Senate Sponsor:** Wentworth

House Joint Resolution 63 proposes an amendment to the state constitution to authorize the legislature, by general law, to authorize a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the county and to pledge increases in property tax revenues derived from the property tax imposed on property in the area by the county for repayment of those bonds or notes.



**Senate Bill 267**  
**Effective:** 6-17-11

**Senate Author:** Williams et al.  
**House Sponsor:** Elkins

Senate Bill 267 amends the Tax Code to require a joint statement regarding the transfer of ownership of a motor vehicle as the result of a gift from a family member or a decedent's estate to be filed in person by the recipient of the gift or, as applicable, the person from whom the gift is received or a person authorized to act on behalf of the estate from which the gift is received. The bill prohibits a licensed motor vehicle title service from being used to file the statement and requires the person who files the statement to present to the tax assessor-collector an unexpired identification document issued to the person that bears the person's photograph and is of a type of identification document listed in the bill.

**Senate Bill 422**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Frullo

Senate Bill 422 amends the Local Government Code to authorize the governing body of a municipality or county to contract with the governing body of another taxing unit or the board of directors of an appraisal district to perform the duties of the municipality or county relating to collection of special assessments levied under the Public Improvement District Assessment Act.

**Senate Bill 682**  
**Effective:** 6-17-11

**Senate Author:** Huffman  
**House Sponsor:** Elkins

Senate Bill 682 amends the Government Code to entitle an appraisal district to obtain from the Department of Public Safety (DPS) criminal history record information that relates to an applicant for appointment to the appraisal district's appraisal review board. The bill authorizes the appraisal district, if the appraisal review board members are appointed by the local administrative district judge, to provide the criminal history record information obtained from DPS to the local administrative district judge or to the appraisal review board commissioners appointed by the local administrative district judge.

**Senate Bill 776**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini  
**House Sponsor:** Guillen et al.

Previous law required the comptroller of public accounts to provide an alternate method for the preparation of proof of export documentation showing the exemption of tangible personal property exported outside the United States for use in those instances when the comptroller's password-protected website used by a customs broker or the broker's authorized employee to prepare such documentation is unavailable as a result of technical or communication problems. Senate Bill 776 amends the Tax Code to authorize, rather than require, the provision of this alternate method and to authorize a customs broker or authorized employee to use the alternate method only if the comptroller provides prior authorization for each use. The bill expands the comptroller's authority to suspend or revoke a customs broker's documentation license for issuing false documentation by removing language limiting the basis for such authority to the issuance of false documentation for the specific purpose of obtaining or aiding another person to obtain a tax refund. The bill authorizes the comptroller to add a penalty of up to \$5,000 to the amount of any refunded tax that a customs broker must repay for failure to comply either with documentation requirements for the exemption of exported property or related comptroller rules.

The bill expands the means for verifying that a purchaser is transporting property to a destination outside of the territorial limits of the United States when such verification is required as a condition for the issuance by a licensed customs broker or the broker's authorized employee of documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States. The bill requires the comptroller to limit to six

the number of receipts for which a single proof of export documentation may be issued and adds to the information required to be included in such documentation.

The bill makes the amount of the penalty that the comptroller may impose on a customs broker who does not comply with statutory provisions or comptroller rules relating to the documentation requirements for the exemption of exported property independent of the amount of any refunded tax that must be repaid. The bill increases from \$1.60 to \$2.10 the amount of the charge required for each export stamp and provides for the disposition of the collected money.

## **Hotel Occupancy Taxes**

### **House Bill 970**

**Effective:** 6-17-11

**House Author:** Gonzales, Larry et al.

**Senate Sponsor:** Ogden

House Bill 970 amends the Tax Code to add to the permissible uses of revenue from the municipal hotel occupancy tax for a municipality with a population of at least 90,000 but less than 120,000 that is located in two counties, at least one of which contains the headwaters of the San Gabriel River, and for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000. The bill authorizes such municipalities to use hotel occupancy tax revenue to build, improve, maintain, and operate a coliseum or multiuse facility or, in the case of the latter municipality, a venue related to the promotion of tourism.

### **House Bill 1033**

**Effective:** 6-17-11

**House Author:** Craddick

**Senate Sponsor:** Seliger

House Bill 1033 amends the Tax Code to authorize the commissioners court of a county that has a population of less than 8,000, that borders the Pecos River, and that borders another county with a population of more than 120,000 to impose a county hotel occupancy tax applicable to a hotel other than a hotel located in a municipality that imposes a municipal occupancy tax applicable to that hotel.

### **House Bill 1234**

**Effective:** 6-17-11

**House Author:** Miller, Doug

**Senate Sponsor:** Wentworth

House Bill 1234 amends the Tax Code to authorize the commissioners court of a county through which the Guadalupe River flows and in which the source of the Blanco River is located to impose a county hotel occupancy tax applicable to a hotel other than a hotel located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel.

The bill also amends the provision authorizing the commissioners court of a county in which the birthplace of a president of the United States is located to impose a county hotel occupancy tax by removing the county population bracket and adding the specification that the Pedernales River flows through the county.

### **House Bill 1315**

**Effective:** 6-17-11

**House Author:** Aliseda

**Senate Sponsor:** Zaffirini

House Bill 1315 amends the Tax Code to authorize a municipality with a population of at least 3,500 but less than 5,500 that is the county seat of a county with a population of less than 50,000 that borders a county with a population of more than 1.6 million and a municipality with a population of at least 2,900 but less than 3,500 that is the county seat of a county with a population of less than 22,000 that is bordered by the Trinity River and includes a state park and a portion of a wildlife management area to use all or any portion of the revenue derived

from the municipal hotel occupancy tax for certain specified projects to enhance hotel activity and encourage tourism.

The bill caps the municipal hotel occupancy tax rate at nine percent for a municipality that has a population of more than 95,000 and is in a county that borders Lake Palestine and has a population of more than 200,000 and for a municipality that has a population of at least 80,000 and is partly located in a county that borders Louisiana and has a population of at least 60,000. The bill requires these municipalities to allocate all revenue received from the application of the tax at a rate of more than seven percent for the construction, expansion, maintenance, or operation of convention center facilities.

**House Bill 1690**  
**Effective:** 6-17-11

**House Author:** Flynn  
**Senate Sponsor:** Deuell

House Bill 1690 amends the Tax Code to authorize a municipality that has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less to use revenue from the municipal hotel occupancy tax to promote tourism by the enhancement and upgrading of certain existing municipally owned sports facilities or fields.

**House Bill 2048**  
**Effective:** 9-1-11

**House Author:** Lyne  
**Senate Sponsor:** Deuell

Current law authorizes a municipality, if a person fails to file a required tax report relating to the collection of a municipal hotel occupancy tax, to conduct an audit of each hotel for which the person did not file the required report to determine the amount of tax due. House Bill 2048 amends the Tax Code to grant a county the same authority to audit a hotel for which a person fails to file a tax report relating to the collection of a county hotel occupancy tax applicable to that hotel as required. The bill authorizes the municipality or county, as applicable, to perform such an audit directly or to contract with another person to perform the audit on an hourly rate or fixed-fee basis but requires the municipality or county to give the person required to collect the hotel occupancy tax at least 30 days' written notice before conducting that audit.

If a person failed either to file a tax report relating to the collection of a municipal hotel occupancy tax or to pay the tax when due, previous law authorized the municipal attorney or other attorney acting for the municipality to file a suit to collect the unpaid tax or enjoin the person's hotel operations in the municipality until the tax is paid or the report filed and to audit a hotel to determine the amount of tax due. House Bill 2048 instead vests that authority in the municipality generally rather than in the individual attorney. The bill makes a person's liability to the municipality for the costs of an audit contingent on the municipality having not received a disbursement from the comptroller of public accounts related to the person's concurrent state tax delinquency and makes the person's liability to the municipality for a specified penalty contingent on the tax having been delinquent for at least one complete municipal fiscal quarter.

The bill requires a municipality or county to notify and submit the relevant audit information to the comptroller if, as a result of an audit, the municipality or county obtains information showing a failure to collect or pay when due both the state hotel occupancy tax and the municipal or county hotel occupancy tax, as applicable, on a paying hotel guest. The bill requires the comptroller to review the information submitted and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent state hotel occupancy tax and the assessment has become administratively final, the comptroller must distribute a percentage of the amount collected to the municipality or county, as applicable, to defray the cost of the municipal or county audit.

The bill requires the comptroller, not later than the last day of the month following a calendar quarter, to compute the amount of revenue, excluding penalties, interest, and amounts paid under

protest, derived from the collection of state hotel occupancy taxes that resulted from information received from a municipality or county indicating a municipal or county hotel occupancy tax delinquency concurrent with a state hotel occupancy tax delinquency and to issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed to the municipality or county that provided the documentation or other information.

**House Bill 2265**  
**Effective:** 9-1-11

**House Author:** Ritter  
**Senate Sponsor:** Gallegos

House Bill 2265 amends the Tax Code to authorize a county that imposes a hotel occupancy tax to audit a hotel to determine the amount of taxes due and, after giving reasonable notice, to access the hotel's books or records during business hours as necessary to conduct the audit.

**House Bill 3076**  
**Effective:** 6-17-11

**House Author:** Gallego  
**Senate Sponsor:** Uresti

House Bill 3076 amends the Tax Code to cap the county hotel occupancy tax rate in a county that borders the United Mexican States and in which there is located a national recreation area at seven percent of the price paid for a room in the hotel. The bill authorizes such a county, if a municipality in the county imposes a municipal hotel occupancy tax, to impose the county hotel occupancy tax on a hotel to which the municipal tax applies at a rate that, when added to the municipal tax rate, does not exceed seven percent of the price paid for a room in the hotel.

**Senate Bill 349**  
**Effective:** 6-17-11

**Senate Author:** Eltife  
**House Sponsor:** Hopson

Senate Bill 349 amends the Tax Code to cap the municipal hotel occupancy tax rate in a municipality that has a population of more than 95,000 and is in a county that borders Lake Palestine and has a population of more than 200,000 and in a municipality that has a population of at least 80,000 and is partly located in a county that borders Louisiana and has a population of at least 60,000 at nine percent of the price paid for a hotel room. The bill requires these municipalities to allocate all revenue received from the application of the tax at a rate of more than seven percent of the price paid for a hotel room for the construction, expansion, maintenance, or operation of convention center facilities.

**Senate Bill 804**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Hunter

Senate Bill 804 amends the Tax Code to expand the permissible uses for revenue from the hotel occupancy tax imposed by a county that borders the Gulf of Mexico, that has a population of 50,000 or less, and in which there is located at least one state park and one national wildlife refuge to include the use of that tax revenue to acquire, construct, furnish, or maintain facilities such as aquariums, birding centers and viewing sites, history and art centers, and nature centers and trails; to advertise and conduct solicitations and promotional programs to attract conventions and visitors; and to provide and maintain public restrooms and litter containers on public land in an area that is a tourism venue. The bill exempts the use of revenue from a county hotel occupancy tax imposed by a county under the bill's provisions from a provision of law otherwise limiting to 50 percent or less the use of revenue from the hotel occupancy tax imposed in a county that borders the Gulf of Mexico for the promotion of tourism.

**Senate Bill 1185**  
**Effective:** 6-17-11

**Senate Author:** Nichols  
**House Sponsor:** Gooden

Senate Bill 1185 amends the Tax Code to authorize the commissioners court of a county that has a population of 65,000 or more and that is bordered by the Neches and Trinity Rivers to impose a hotel occupancy tax. The bill caps the tax rate at two percent of the price paid for a room in a hotel and limits the use of the revenue from the tax to the operation and maintenance of a fairground in the county that has a substantial impact on tourism and hotel activity.

**Senate Bill 1413**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Kleinschmidt

Senate Bill 1413 amends the Tax Code to authorize the commissioners court of a county that has a population of 80,000 or less, in which two state parks are located, and through which the Colorado River flows but that is not bordered by that river to impose a county hotel occupancy tax capped at a rate of seven percent of the price paid for a room in a hotel. The bill caps the county hotel occupancy tax rate at 0.75 percent of the price paid for a room in a hotel if the hotel is located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel or in the extraterritorial jurisdiction of that municipality and the municipality imposes a municipal hotel occupancy tax in that area applicable to the hotel.

## **Property Tax Appraisals and Protests**

**House Bill 361**  
**Effective:** 9-1-11

**House Author:** Otto  
**Senate Sponsor:** Seliger

Previous law required one of the members of an agricultural advisory board appointed by the chief appraiser of each appraisal district to be a representative of the county agricultural stabilization and conservation service. House Bill 361 amends the Tax Code to remove this requirement and to reduce the minimum frequency at which such a board is required to meet at the call of the chief appraiser from three times a year to once a year.

**House Bill 533**  
**Effective:** 6-17-11

**House Author:** Villarreal  
**Senate Sponsor:** Hinojosa

House Bill 533 amends the Tax Code to establish that a person is not required to render for taxation personal property that is exempt from additional appraisal or taxation on the basis of its inclusion in the appraisal of real property by a method that takes into account the value of furniture, fixtures, and equipment in or on the real property. The bill requires the chief appraiser to deliver to a person who fails to timely file a rendition statement or property report a notice, by first class mail, of the imposition of a penalty for that failure to file the statement or report and authorizes the inclusion in that notice of a notice of appraised value if practicable. The bill requires the chief appraiser to certify to the assessor for each taxing unit participating in the appraisal district that imposes taxes on the property that a penalty imposed under provisions relating to the filing of renditions and other reports has become final, rather than that the chief appraiser has imposed a penalty, and establishes the conditions under which a penalty becomes final.

The bill limits the chief appraiser's authority to waive a penalty to the waiver of a penalty imposed for a delinquent rendition statement or property report by excluding the authority to waive a penalty for filing a false statement with the intent to commit fraud or evade the tax or for tampering with a related document; changes the deadline for submitting a request for a waiver of



the penalty; and requires the chief appraiser, if the chief appraiser denies the waiver request, to deliver by first class mail written notice of the denial to the property owner. The bill authorizes the property owner to protest the imposition of the penalty before the appraisal review board and sets out certain provisions relating to the initiation of such a protest.

The bill establishes that the procedures for a protest before the appraisal review board regarding a denial of a penalty waiver request are governed by the procedures governing a taxpayer protest of other actions by the chief appraiser, appraisal district, or appraisal review board that apply to or adversely affect the property owner and entitles the property owner to appeal an order of the appraisal review board determining a protest of such denial. The bill authorizes the chief appraiser and a protesting property owner to enter into a settlement agreement on the matter being protested, if both parties agree that there was a mistake.

**House Bill 896**

**Effective:** 6-17-11

**House Author:** Howard, Charlie

**Senate Sponsor:** Patrick

House Bill 896 amends the Tax Code to authorize the board of directors of an appraisal district, by resolution of a majority of the members, to provide for a number of auxiliary appraisal review board members that the board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties. The bill establishes the limited powers of an auxiliary board member and the compensation to which such a member is entitled.

**House Bill 1090**

**Effective:** 9-1-11

**House Author:** Gonzalez et al.

**Senate Sponsor:** Seliger et al.

House Bill 1090 amends the Tax Code to require a property tax refund following the final determination of an appeal that decreases a property owner's tax liability after the property owner has paid the taxes to include interest on the amount refunded calculated at an annual rate that is equal to the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board as of the first day of the month in which the refund is made, but not more than a total of eight percent, calculated from the delinquency date for the taxes until the date the refund is made.

The bill removes language specifying a different rate calculation for the interest if the refund is made because an exemption from property taxes for a religious organization that was denied by the chief appraiser or appraisal review board is granted and specifying interest on the refund amount at an annual rate of eight percent for any other property tax refund.

**House Bill 1887**

**Effective:** 9-1-11

**House Author:** Villarreal

**Senate Sponsor:** Hinojosa

House Bill 1887 amends Tax Code provisions relating to administration of and procedures for property tax protests and appeals. The bill clarifies that the entitlement of an individual who is exempt from registration as a property tax consultant and who files a protest with an appraisal review board on a property owner's behalf to receive all notices from the appraisal district regarding the property subject to the protest applies to an exempt individual who is neither supervised, directed, nor compensated by a registered property tax consultant and includes all notices from the appraisal review board. The bill requires such an individual who is not designated by the property owner to receive notices, tax bills, orders, and other communications to file a statement with the protest that includes the individual's name and address, a statement that the individual is acting on the property owner's behalf, and the basis for the exemption.

House Bill 1887 extends the current prohibition against an appraisal district or a taxing unit providing initial or continuing appraisal review board training to also prohibit a chief appraiser,

appraisal district employee, member of an appraisal district board of directors, or appraisal review board member from providing that training. The bill also prohibits a chief appraiser, district employee, director, officer or employee of a taxing unit in the district, or attorney or firm representing the district or taxing unit from communicating with an appraisal review board member about a training course or any matter presented or discussed during the course, with certain exceptions. The bill authorizes an appraisal review board to retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct board members on valuation methodology if the appraisal district budgets for the instruction.

The bill expands the conditions that constitute an offense of ex parte communication between an appraisal review board member and appraisal district staff to include such communication between an appraisal review board member and a member of the district's board of directors, specifies the necessary intent on the part of the staff or director, and provides additional exceptions to the application of that offense. The bill makes an individual ineligible to serve on an appraisal review board if the individual is related within the third degree by consanguinity or within the second degree by affinity to a member of the appraisal district's board of directors.

The bill prohibits an attorney from serving as legal counsel for an appraisal review board if the attorney or a member of the attorney's law firm has, during the year before the date of the appraisal review board's hiring of the attorney, represented an owner of property in the appraisal district, a taxing unit participating in the district, or the district itself in certain matters. The bill authorizes the county attorney for the county in which the appraisal district is established to provide legal services to the appraisal review board even if the attorney or an assistant to the attorney represents or has represented the district or a taxing unit participating in the district in any matter. The bill sets out additional provisions relating to an attorney serving as legal counsel for an appraisal review board.

The bill includes the correction of an error in an appraisal roll in which property is shown as owned by a person who did not own the property on January 1 of that tax year among the changes that the appraisal review board may order to be made in the appraisal roll for any of the five preceding years on motion of either the chief appraiser or a property owner. The bill requires a property owner who files a motion to correct an appraisal roll or who protests the failure of the chief appraiser or the appraisal review board to provide the property owner any notice to which the owner is entitled to pay the amount of taxes due on the portion of the property's taxable value that is not in dispute before the delinquency date or else forfeit the right to proceed to a final determination of the motion or protest, unless the property owner is excused from that requisite to a final determination based on an oath of inability to pay. The pendency of the motion or protest does not affect the delinquency date for the taxes on the property that is the subject of the motion or protest. The bill authorizes the property owner or the chief appraiser to file suit to compel the appraisal review board to order a change in the appraisal roll within 60 days of receiving notice either of a final determination of the motion for such change or of a determination that the property owner has forfeited the right to a final determination for failing to prepay property taxes. The bill entitles a property owner to appeal a determination of forfeiture. The bill requires the board, on the motion of a party, to hold a hearing to determine compliance with the requirements for avoiding such forfeiture and authorizes the board to set such terms and conditions on any grant of relief as the circumstances may reasonably require.

The bill prohibits a taxpayer's notice of protest from being found to be untimely or insufficient based on a finding of incorrect ownership if the notice identifies one of certain persons as the property owner or uses a misnomer for such a person. The bill requires the appraisal review board, if the protest is of a determination of appraised value, to state in the order determining the protest the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser and as finally determined by the board.

The bill entitles a person to intervene in an appeal to a district court for judicial review of a property tax dispute, grants that person standing, and grants the court jurisdiction in the appeal if the property that is the subject of the appeal was also the subject of a protest hearing and the person owned the property, leased the property and filed the original protest, or is shown on the appraisal roll as the owner or lessee who is authorized to file a protest and filed the original protest. The bill prohibits a petition for review from being brought against an appraisal review board and authorizes an appraisal district to hire an attorney to obtain a dismissal of such a petition.

The bill requires the district court, on motion by a party to an appeal, to enter an order requiring the parties to attend mediation and authorizes the court to enter an order requiring the parties to attend mediation on its own motion.

The bill expands the scope of what constitutes sufficient evidence to deny a motion in a judicial review of a property tax appeal with regard to a no-evidence motion for summary judgment and what constitutes personal property as it relates to the admission of expert testimony to determine the value of chemical processing property or utility property. The bill requires that an attorney provide notice of certain third-party engagements to the person represented by the attorney and requires separate forms for each district court appeal to which a property owner is a party.

**House Bill 2203**  
**Effective:** 6-17-11

**House Author:** Otto  
**Senate Sponsor:** Williams

House Bill 2203 amends the Government Code to require the pilot program developed by the State Office of Administrative Hearings for the consideration by the office, as an alternative to a judicial review, of a property owner's appeal of an appraisal review board order determining a protest regarding a property's appraised or market value to be implemented in Collin, Denton, Fort Bend, Montgomery, and Nueces Counties for a two-year period beginning with the property tax year that begins January 1, 2012. The bill also extends the period for the program as implemented in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis Counties, which went into effect beginning with the 2010 tax year, from three years to four years.

The bill revises the process by which a property owner may appeal an appraisal review board order to the office under the pilot program by removing the requirement that the property owner file a \$300 filing fee with the chief appraiser and instead requiring that the property owner file a \$1,500 deposit. The bill also establishes a deadline specifically for filing such a deposit, which is refundable in part on a settlement between the property owner and the appraisal district, with the amount of the refund contingent on whether the parties settle before or after the appeal is heard.

The bill authorizes the determination of an administrative law judge assigned to hear an appeal brought under the pilot program to include an award of reasonable attorney's fees capped at a certain amount.

**House Bill 2220**  
**Effective:** 6-17-11

**House Author:** Davis, Yvonne  
**Senate Sponsor:** Ellis

House Bill 2220 amends the Tax Code to require a property owner who files a motion to correct an appraisal roll or who protests the failure of the chief appraiser or the appraisal review board to provide any notice to which the property owner is entitled to pay the amount of taxes due on the portion of the property's taxable value that is not in dispute before the delinquency date, unless excused after filing an oath of inability to pay, or else forfeit the right to a final determination of the motion or protest. The pendency of the motion or protest does not affect the delinquency date for the taxes on the property that is the subject of the motion or protest.

House Bill 2220 requires the board, on the motion of a party, to determine compliance with requirements to prepay the property taxes due as a prerequisite to a final determination of a pending motion or protest and authorizes the board to set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

House Bill 2220 authorizes the property owner or the chief appraiser to file suit to compel the appraisal review board to order a change in the appraisal roll within 45 days of receiving notice of a determination of the board that the property owner has forfeited the right to a final determination of a motion for failing to prepay property taxes. The bill entitles a property owner to appeal such a determination.

**House Bill 3133**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Hinojosa

House Bill 3133 amends the Tax Code to prohibit property that received a property tax exemption on the basis of its ownership by an organization that constructs or rehabilitates property and uses the property to provide affordable, low-income housing and that was subsequently transferred by that organization to a charitable organization that owns property for the purpose of building or repairing housing with volunteer labor to sell to an individual or family meeting the organization's income eligibility requirements from being exempted under an exemption for the latter organization after the fifth anniversary of the date the transferring organization acquired the property.

The bill establishes that the transfer of property from the former organization to the latter organization is a proper use of and purpose for owning the property under the property tax exemption for the former organization and does not affect the eligibility of the property for such an exemption. The bill requires the chief appraiser of an appraisal district to use the income method of appraisal if property qualifies for the exemption regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property.

House Bill 3133 requires the chief appraiser, in appraising real property that was previously owned by a charitable organization that owns property for the purpose of building or repairing housing with volunteer labor to sell to an income-eligible individual or family and that was sold to a low-income individual or family meeting the organization's income eligibility standards under regulations or restrictions limiting the amount that the individual or family was required to pay for the property, to take into account the extent to which that use and limitation and any resale restrictions or conditions applicable to the property established by the organization reduce the property's market value.

The bill also creates an exception to sanctions of additional taxes and interest due when the use of land that was taxed based on agricultural use changes, for real property transferred as addressed by the bill. This exception does not apply to sanctions due to a county or school district unless the sanctions are officially waived by the governing body.

**House Bill 3216**  
**Effective:** 9-1-11

**House Author:** Otto  
**Senate Sponsor:** West

Current law authorizes the electronic transmission of notices, property renditions, application forms, or completed applications between a chief appraiser and a property owner or the property owner's designee if the parties agree to communicate electronically. House Bill 3216 amends the Tax Code to include in that authorization the electronic transmission of documents between an appraisal district, an appraisal review board, or any combination of the chief appraiser, appraisal district, or appraisal review board and a property owner or the owner's designee. The bill authorizes the chief appraiser to determine the medium, format, content, and method to be used for an electronic communication if the comptroller of public accounts has not already done so.

The bill makes a requirement for the chief appraiser to enter into an agreement for electronic delivery of a notice of appraised value at the request of a property owner whose property is included in 25 or more accounts in the appraisal district's appraisal records applicable only if the appraisal district is located in a county with a population of more than 200,000.

The bill requires the chief appraiser to provide notice via certain means regarding the availability of agreement forms authorizing electronic communication and requires a property owner or a property owner's designee who enters into an agreement authorizing electronic communication that has not been rescinded to notify the appraisal district of a change in the e-mail address specified in the agreement before the first April 1 that occurs following the change. The bill provides that if notification is not received by the appraisal district before that date, any notices delivered under the agreement to the property owner or the property owner's designee are considered to be timely delivered until the required notification is received. The bill makes Government Code provisions relating to digital signatures applicable to an electronic signature included in any notice, rendition, application form, or completed application.

The bill prohibits a decision by the chief appraiser not to enter into an agreement, unless the chief appraiser is otherwise required by law to enter into an agreement, from being reviewed by the appraisal review board or from being the subject of a suit to compel, a taxpayer protest, a judicial appeal, or a complaint filed under the Property Taxation Professional Certification Act. The bill requires the chief appraiser, appraisal district, or appraisal review board, unless the chief appraiser and the property owner or the property owner's designee agree otherwise, to deliver a notice electronically in a manner that allows for confirmation of receipt by the property owner or the designee. The bill requires delivery by regular first class mail if confirmation of receipt is not received by the 30th day following the date the electronic notice is delivered.

The bill requires each appraisal district established for a county having a population of 500,000 or more to implement a system that allows a designation of a property tax agent to be signed and filed electronically. The bill requires an agent who electronically submits a designation of agent form, on the chief appraiser's request, to provide the chief appraiser certain information regarding the form and prohibits a person from knowingly falsifying such a form.

**House Bill 3727**

**Effective:** 9-1-11

**House Author:** Hilderbran et al.

**Senate Sponsor:** Uresti

House Bill 3727 amends the Tax Code to establish a legislative finding regarding the lack of information reliably establishing the market value of temporary production aircraft and to address that finding by specifying the method to be used in determining the appraised value of such aircraft for property tax purposes. The bill requires the chief appraiser to determine the appraised value of temporary production aircraft to be 10 percent of the aircraft's list price as of January 1.

**Senate Bill 449**

**Effective:** See below

**Senate Author:** Watson et al.

**House Sponsor:** Ritter

Senate Bill 449 amends the Tax Code to include water stewardship among the agricultural uses, as that term is defined, that qualify agricultural land for a property tax appraisal as qualified open-space land on the basis of the land's productive capacity rather than its market value as determined by other appraisal methods.

The bill requires the Parks and Wildlife Department, with assistance from the comptroller of public accounts, to develop standards for determining whether land qualifies for such appraisal based on water-stewardship use; requires the comptroller by rule to adopt those standards or alternative standards and to distribute those rules to each appraisal district; and sets out certain



attributes of land size, use, and other characteristics that the standards must address with respect to the land's eligibility for appraisal as open-space land.

The bill makes land located inside the corporate limits of an incorporated city or town eligible for appraisal as open-space land if it is used for water stewardship, with certain exceptions. The bill excludes land used for water stewardship, along with land used for wildlife management, from a provision that entitles an owner of qualified open-space land on which the Texas Animal Health Commission has established a temporary quarantine for the purpose of regulating the handling of livestock and eradicating ticks or exposure to ticks to a reappraisal of the owner's land for the applicable tax year.

The bill takes effect January 1, 2012, contingent on voter approval of a constitutional amendment proposed by Senate Joint Resolution 16, providing for the appraisal of land devoted to water stewardship as qualified open-space land.

**Senate Bill 1130**

**Effective:** 6-17-11

**Senate Author:** Hegar

**House Sponsor:** Kleinschmidt

Previous law excepted certain property tax appraisal information received by the comptroller of public accounts or the chief appraiser of an appraisal district from a private entity, including sales prices, descriptions, and characteristics and information relating to a taxpayer protest, from required disclosure under the state's open records law only if the information related to real property located in a county having a population of 20,000 or more. Senate Bill 1130 amends the Government Code to raise the county population threshold for the exception to apply, protecting such information from disclosure only if the information pertains to real property located in a county having a population of more than 50,000.

**Senate Bill 1341**

**Effective:** 5-20-11

**Senate Author:** Seliger

**House Sponsor:** Elkins

Senate Bill 1341 amends the Tax Code to prohibit a taxing unit from being made a party to a suit filed by a property owner or chief appraiser to compel an appraisal review board to order a change in the appraisal roll. The bill requires the movant in such a suit, if a hearing is requested to review and determine compliance with certain provisions regarding the payment of taxes during a pending appeal and the forfeiture of remedy for nonpayment, to mail notice of the hearing by certified mail, return receipt requested, to the collector for each taxing unit that imposes taxes on the property not later than the 45th day before the date of the hearing. The bill authorizes a taxing unit that imposes taxes on the property, regardless of whether the collector for the taxing unit receives a notice, to intervene in such a suit and to participate in the proceedings for the limited purpose of determining whether the property owner has complied with the applicable provisions. The bill entitles the taxing unit to process for witnesses and evidence and to be heard by the court.

**Senate Bill 1385**

**Effective:** 9-1-11

**Senate Author:** Lucio

**House Sponsor:** Oliveira

Senate Bill 1385 amends the Tax Code to authorize the chief appraiser of an appraisal district or the collector for a taxing unit, as applicable, to waive a penalty imposed against a motor vehicle dealer, heavy equipment dealer, or manufactured housing retailer for the failure to file an inventory declaration or an inventory tax statement by the specified filing deadline if the following conditions apply: the taxpayer seeking the waiver files a written application for the waiver within a specified period, the taxpayer's failure to file or to file in a timely manner is attributable to certain circumstances beyond the taxpayer's control, and the taxpayer is otherwise in compliance with regulations governing property tax appraisal methods and procedures.

**Senate Bill 1404**  
**Effective:** 6-17-11

**Senate Author:** Hinojosa  
**House Sponsor:** Davis, Yvonne

Senate Bill 1404 amends the Tax Code to extend the period within which a property owner or the chief appraiser for an appraisal district is authorized to file suit to compel the district's appraisal review board to order a change in the appraisal roll from within 45 days to within 60 days after receiving notice of the board's determination of the property owner's or chief appraiser's motion to change the appraisal roll to correct an error.

**Senate Bill 1441**  
**Effective:** 9-1-11

**Senate Author:** Ellis  
**House Sponsor:** Davis, Yvonne

Senate Bill 1441 amends the Tax Code to authorize a county appraisal district's appraisal review board, on motion of either the chief appraiser or a property owner, to order a change in an appraisal roll for any of the five preceding years to correct an error in which property is shown as being owned by a person who did not own the property on January 1 of that tax year.

**Senate Bill 1505**  
**Effective:** 1-1-12

**Senate Author:** Uresti et al.  
**House Sponsor:** Lewis

Under previous law, if a real property interest in oil or gas in place was to be appraised by a method that took into account the future income from the sale of oil or gas to be produced from the interest, the method had to use the average price of the oil or gas from the interest for the preceding calendar year multiplied by a market condition factor as the price at which the oil or gas produced from the interest was projected to be sold in the current year of the appraisal. The law also required the comptroller of public accounts to calculate the market condition factor in the manner specified, calculate the preceding calendar year actual statewide average prices for oil and gas, and publish that information for appraisal purposes. Senate Bill 1505 amends the Tax Code to change the multiplier used in that appraisal method from a market condition factor as calculated by the comptroller to a price adjustment factor as calculated by the chief appraiser.

Senate Bill 1505 specifies the manner in which the price adjustment factor is to be calculated, places restrictions on the price for the interest used in the second through the sixth calendar year of appraisal, and requires the comptroller by rule to develop and distribute to each appraisal office manuals that specify the formula to be used in computing the limit on the price for an interest used in the second through the sixth year of an appraisal, in addition to specifying the methods and procedures to discount future income from the sale of oil and gas from the interest to present value.

**Senate Bill 1546**  
**Effective:** 9-1-11

**Senate Author:** Patrick  
**House Sponsor:** Murphy

Current law entitles a property owner who has not designated an agent to represent the owner at a hearing on a protest before an appraisal review board and who fails to appear at that hearing to a new hearing if the property owner files a written statement with the appraisal review board within a specified period showing good cause for the failure to appear and requesting a new hearing. Senate Bill 1546 amends the Tax Code to extend that entitlement to a person designated by the property owner as the owner's agent for purposes of representing the owner at such a hearing who fails to appear at the hearing and who files a timely written statement with the board showing good cause for the failure to appear and requesting a new hearing.

**Senate Joint Resolution 16**  
**For Election:** 11-8-11

**Senate Author:** Estes et al.  
**House Sponsor:** Ritter

Senate Joint Resolution 16 proposes an amendment to the state constitution to include open-space land devoted to water stewardship within the scope of a provision requiring the legislature to provide by general law for the taxation of open-space land on the basis of the land's productive capacity when devoted to certain purposes.

## Property Taxes

**House Bill 252**  
**Effective:** See below

**House Author:** Hilderbran  
**Senate Sponsor:** Estes

House Bill 252 amends the Tax Code to require an application for a residence homestead property tax exemption to state that the applicant does not claim an exemption on another homestead in Texas or claim a similar exemption in another state and to include a copy of the applicant's driver's license or state-issued personal identification certificate, a copy of the applicant's vehicle registration receipt or an affidavit stating that the applicant does not own a vehicle, and a copy of a utility bill for the subject property in the applicant's name. The bill prohibits a chief appraiser from allowing a residence homestead exemption unless the address on the driver's license or personal identification certificate matches the address on the vehicle registration certificate or utility bill and that address matches the address of the property for which the exemption is claimed. The bill also requires an applicant who is disabled or is 65 years of age or older and claiming an exemption based on that disability or age who is not specifically identified on a deed or other recorded instrument as an owner of the residence homestead to provide an affidavit or other compelling evidence of an ownership interest in the homestead.

House Bill 252 allows an applicant to qualify a manufactured home as a residence homestead when claiming a property tax exemption by submitting, as an alternative form of documentation, a sworn affidavit stating that the applicant is the owner of the home, the seller did not provide the applicant with a purchase contract, and the applicant tried but could not locate the seller. The bill bases the qualification of the land on which a manufactured home is located for a property tax exemption on the applicant's ownership of the land and occupation of the manufactured home as the applicant's principal residence and the applicant's demonstration or the appraisal district's determination of such ownership and requires a chief appraiser to apportion an exemption for land and a manufactured home listed separately on the tax roll on a pro rata basis based on their respective appraised values. The bill makes its provisions relating to manufactured homes effective January 1, 2012, while the remainder takes effect September 1, 2011.

**House Bill 499**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson

House Bill 499 amends the Tax Code to include the property taxes for which a property owner is billed through a corrected or supplemental tax bill following the final determination of an appeal and that become delinquent if not paid before the prescribed delinquency date among the delinquent taxes for which the governing body of a taxing unit or appraisal district may impose an additional penalty to defray collection costs if those taxes become delinquent on or after June 1.

**House Bill 645**  
**Effective:** 9-1-11

**House Author:** Orr et al.  
**Senate Sponsor:** Patrick

House Bill 645 amends the Tax Code to require a form for an application for a property tax exemption to allow the applicant, if the applicant is a charitable organization with a federal tax identification number, to provide the organization's federal tax identification number in lieu of a driver's license number, personal identification certificate number, or social security account number.

**House Bill 843**  
**Effective:** 1-1-12

**House Author:** Geren et al.  
**Senate Sponsor:** Davis

House Bill 843 amends the Tax Code to require the assessor for a taxing unit to deliver a property tax bill by electronic means if on or before September 15 the individual or entity entitled to receive a tax bill and the assessor enter into an agreement for delivery of a tax bill by electronic means. An assessor who delivers a tax bill electronically is not required to deliver the same bill by regular first class mail. The bill authorizes the comptroller of public accounts to prescribe acceptable media, formats, content, and methods for the delivery of tax bills by electronic means and to provide a model form agreement.

**House Bill 930**  
**Effective:** 6-17-11

**House Author:** Darby  
**Senate Sponsor:** Harris

House Bill 930 amends the Tax Code to require a court in which a tax collector has applied for a tax warrant authorizing the seizure of personal property for the purpose of satisfying a property tax before the tax becomes delinquent to issue the tax warrant if the applicant shows by affidavit that the applicant knows of no other personal property the person owns in the county from which the tax may be satisfied and the applicant has reason to believe the property is about to be sold at a liquidation sale in connection with the cessation of a business.

**House Bill 2169**  
**Effective:** 6-17-11

**House Author:** Aycock  
**Senate Sponsor:** Shapiro

House Bill 2169 amends the Tax Code to authorize the governing body of a taxing unit to rescind a previously adopted discount for the early payment of property taxes. The rescission takes effect in the tax year following the year in which the discount is rescinded.

**House Bill 2280**  
**Effective:** 6-17-11

**House Author:** Eiland  
**Senate Sponsor:** Jackson

House Bill 2280 amends the Tax Code to require that at least one member of the permanent advisory committee established to advise the Texas Commission on Environmental Quality regarding the implementation of the property tax exemption for pollution control property be a representative of a school district or junior college district in which property is located that is or previously was subject to a property tax exemption for pollution control property.

**Senate Bill 432**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Bonnen

Current law allows an owner of property located in a disaster area to pay a portion of the taxes due on such property in three equal installments, each due on a specified date, without penalty or interest if the person first pays at least one-fourth of the taxes due and notifies the appropriate taxing unit that the owner will pay the remaining taxes in installments but subjects a delinquent installment payment to a penalty and interest. Senate Bill 432 amends the Tax Code to reduce

the penalty for a failure to make a timely installment payment of property taxes on property in a disaster area from 12 percent to 6 percent of the unpaid amount and interest.

**Senate Bill 540**  
**Effective:** 6-17-11

**Senate Author:** Van de Putte  
**House Sponsor:** Gonzalez

A disabled veteran currently is entitled to an exemption from taxation of a portion of the assessed value of the veteran's property, with the amount of the exemption being based on the veteran's disability rating according to a schedule set forth in the Tax Code. If the disabled veteran dies, the veteran's surviving spouse and children, if any, are entitled to all or a share of the veteran's exemption, depending on the circumstances. The surviving spouse and children of a member of the United States armed forces who dies while on active duty also are entitled to an exemption in a specified amount. The exemption amounts set out in the statute were last revised in 2001. Senate Bill 540 requires the comptroller of public accounts to study what the fiscal impact on state and local governments would have been during the preceding 10 years had the maximum amount of the property tax exemption to which disabled veterans and their surviving spouses and children and certain members of the armed forces are entitled been adjusted to reflect the annual percentage change in the average market value of residence homesteads in each appraisal district in which such property is located. The bill requires a state agency or local government, at the comptroller's request, to provide information and assistance in conducting the study. The bill requires the comptroller, not later than December 1, 2012, to report the results of the study 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.

**Senate Bill 551**  
**Effective:** 9-1-11

**Senate Author:** Williams et al.  
**House Sponsor:** Otto

Senate Bill 551 amends the Tax Code to establish that back taxes assessed on an improvement to real property do not incur interest if the land on which the improvement is located did not escape taxation in the year in which the improvement escaped taxation, the appraisal district had actual or constructive notice of the presence of the improvement in the year in which the improvement escaped taxation, and the property owner pays all back taxes due on the improvement not later than the 120th day after the date the tax bill for the back taxes on the improvement is sent. If an appeal through binding arbitration or judicial review relating to the taxes imposed on the omitted improvement is pending on the 120th day after the date the tax bill is sent, the property owner is considered to have paid the back taxes due by that date if the property owner pays taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute or the amount of taxes due on the property under the order from which the appeal is taken, as applicable.

The bill requires a tax bill that includes back taxes on an improvement that escaped taxation in a prior year to state that no interest is due on the back taxes if those back taxes are paid not later than the 120th day after the date the tax bill is sent.

**Senate Bill 1120**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Lewis

Senate Bill 1120 amends the Transportation Code to limit the property tax exemption otherwise applicable to the property of a local government corporation by excluding from that exemption the property of a local government corporation created by a municipal power agency if the property is located outside of the boundaries of each of the municipalities that created the municipal power agency.



**Senate Joint Resolution 14**  
**For Election:** 11-8-11

**Senate Author:** Van de Putte et al.  
**House Sponsor:** Anderson, Charles “Doc” et al.

Senate Joint Resolution 14 proposes an amendment to the state constitution to authorize the legislature by general law to provide that the surviving spouse of a 100 percent or totally disabled veteran who qualified for a residence homestead exemption from property taxes of all or part of the market value of the disabled veteran’s residence homestead when the disabled veteran died is entitled to a property tax exemption of the same portion of the market value of the same property to which the disabled veteran’s exemption applied if the surviving spouse has not remarried since the death of the disabled veteran and the property was the residence homestead of the surviving spouse when the disabled veteran died and remains as such.

The resolution authorizes the legislature by general law to provide that if a surviving spouse who qualifies for such an exemption subsequently qualifies a different property as the surviving spouse’s residence homestead, the surviving spouse is entitled to a property tax exemption of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption of the former homestead in the last year in which the surviving spouse received an exemption for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

## **Sales and Use Taxes**

**House Bill 205**  
**Effective:** 7-1-11

**House Author:** Pickett  
**Senate Sponsor:** Rodriguez

House Bill 205 amends the Tax Code to specify, for purposes of the Municipal Sales and Use Tax Act, that a statutory reference to a municipality with a population of more than 500,000 that borders the United Mexican States as the territory in which a municipal sales tax or an incident of that tax applies includes the area within the boundaries of a federal military installation that is located in the municipality’s extraterritorial jurisdiction. The bill makes these provisions inapplicable to the boundaries of certain emergency services districts, the authority of such a district to continue imposing a sales and use tax in the entire district territory, and the duty of the district to provide services to the entire district.

House Bill 205 amends the Transportation Code to specify that the jurisdiction of a transit department created by a municipality with a population of more than 500,000 that borders the United Mexican States does not include any territory within the boundaries of a federal military installation that is located in that municipality’s extraterritorial jurisdiction.

**House Bill 268**  
**Effective:** 9-1-11

**House Author:** Hilderbran  
**Senate Sponsor:** Seliger

House Bill 268 amends the Tax Code to require the purchaser of certain tax-exempt agricultural or timber items or tangible personal property, or of services performed on such property, to apply for and have been issued a registration number from the comptroller of public accounts before claiming a state sales and use tax exemption, which number must be stated on an exemption certificate provided by the purchaser when claiming the exemption. A person is eligible to apply for a registration number if the person is engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as defined by federal law. The bill sets out provisions relating to the application for and issuance of registration numbers, the establishment by comptroller rule of a uniform date on which all registration numbers must be renewed regardless of their initial issue date, the renewal period, and the revocation of a registration number for cause and the due process required for revocation. The

bill requires the comptroller to develop and operate an online verification system for a seller to verify the validity of a registration number on an exemption certificate; establish procedures by which a seller may accept a blanket exemption certificate with a registration number issued by the comptroller to claim exemptions; and establish procedures for processing a request for a refund of a tax paid for a tax-exempt item by a purchaser who did not have a registration number at the time of purchase but who subsequently applies for and receives such a number.

The bill also exempts from the state sales and use tax tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used exclusively for the production of milk, and is a free-stall dairy barn or a dairy structure used solely for maternity purposes.

**House Bill 590**  
**Effective:** 9-1-11

**House Author:** Thompson  
**Senate Sponsor:** Patrick

House Bill 590 amends the Tax Code to authorize a municipality, county, or other local governmental entity to request a review of all available sales tax returns and reports in the possession of the comptroller of public accounts filed by not more than five taxpayers doing business within the governmental entity's jurisdiction that are identified by the governmental entity from information received from the comptroller on a previous request by the governmental entity and that relate to a reallocation or refund of local sales tax revenue. The bill establishes deadlines for a local governmental entity's submission of a request for such returns or reports and the comptroller's provision of the requested returns or reports, requires the comptroller to provide such returns and reports regardless of whether the information they contain is confidential, and restricts the local governmental entity's use of that information to protect the information's confidentiality. The bill authorizes the comptroller to set and collect a reasonable fee to cover the expense of compiling and providing the requested sales tax information.

**House Bill 1841**  
**Effective:** 6-17-11

**House Author:** Hartnett et al.  
**Senate Sponsor:** Carona

House Bill 1841 amends the Tax Code to establish that, for purposes of provisions relating to the imposition and collection of a use tax, a person whose only activity in Texas is conducted as a user of Internet hosting is not engaged in business in Texas and that a person providing Internet hosting is not required to examine a user's data to determine the applicability of statutory provisions relating to a use tax to a user, nor to advise a user as to the applicability of such provisions or report to the comptroller of public accounts about a user's activities.

**House Bill 2403**  
**Effective:** Vetoed

**House Author:** Otto et al.  
**Senate Sponsor:** West et al.

House Bill 2403 amends the Tax Code to include in the meaning of "seller" or "retailer," for purposes of provisions governing the state sales and use tax, a person who, under an agreement with another person, is entrusted with possession of tangible personal property with respect to which the other person has title or another ownership interest and who under that agreement is authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property. The bill establishes, for state sales tax purposes, the conditions under which a retailer is considered to be engaged in business in Texas with respect to the retailer's maintenance, occupation, or use of a facility or other physical location in Texas where business is conducted or the retailer's substantial ownership interest in, or ownership by, a person who maintains a location in Texas from which business is conducted.

Reason Given for Veto: "I have serious concerns about the impact and appropriateness of House Bill No. 2403. In particular, I believe this legislation risks significant unintended consequences. My strong

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preference is to conduct a thorough policy discussion with Texas lawmakers, consumers, retailers, and technology experts—and with other states and even the federal government—about interstate commerce and the structure of state sales taxes in the 21st century. That conversation is underway, and I believe that a consensus can and should be reached that balances the competing interests, respects federalism, and is fair and equitable. I call on the legislature to review this issue further while we reach out to our federal delegation and our friends in other states to build consensus.”

**House Bill 2810**  
**Effective:** 9-1-11

**House Author:** Miller, Sid  
**Senate Sponsor:** Estes

House Bill 2810 amends the Tax Code to exempt from the state limited sales, excise, and use tax tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used exclusively for the production of milk, and is either a free-stall dairy barn or a dairy structure used solely for maternity purposes.

**House Bill 2972**  
**Effective:** Vetoed

**House Author:** Smith, Todd  
**Senate Sponsor:** Wentworth

House Bill 2972 amends the Tax Code to authorize a municipality in which 66 percent or more of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of a municipal street maintenance tax favored adoption or reauthorization and in which the tax has not expired since the first of those two consecutive elections to call an election to reauthorize the tax for a period of eight years instead of four years. The election is called and held in the same manner as an election to adopt the tax with the exception of the ballot proposition, which must state the proposition as a proposition to reauthorize the local sales and use tax at the specified rate to continue providing revenue for maintenance and repair of municipal streets and provide for the expiration of the tax at the end of eight years unless the tax is again reauthorized.

The bill sets the expiration date for such a reauthorized tax as the first day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized. The bill expands the authorized uses for the tax revenue from a municipal street maintenance tax to include the maintenance and repair of municipal sidewalks existing on the date of the election to adopt the tax.

Reason Given for Veto: “House Bill 2972 would restrict Texans’ power to vote on whether to maintain or increase a street maintenance tax. House Bill 2972 would allow municipalities to delay voter input by limiting the tax elections to once every eight years rather than the current four-year period. Texans should have the right to vote on tax measures sooner rather than later.”

**House Bill 3182**  
**Effective:** 9-1-11

**House Author:** Ritter  
**Senate Sponsor:** Williams

House Bill 3182 amends the Tax Code to exempt an oilfield portable unit as defined by the bill from the state motor vehicle sales and use tax and the state hotel occupancy tax by excluding such a unit from the definitions of “motor vehicle” and “hotel,” respectively, and instead make such a unit subject to the state sales and use tax.

**Senate Bill 758**  
**Effective:** 9-1-11

**Senate Author:** Deuell  
**House Sponsor:** Hilderbran

Previous law required the comptroller on request to provide to a municipality, county, or other local governmental entity that has adopted a local sales and use tax information relating to the amount of tax paid to the relevant taxing jurisdiction during the preceding or current calendar year by each person doing business in that jurisdiction who annually remits to the comptroller state and local sales tax payments of more than \$25,000. Senate Bill 758 amends the Tax Code

to lower from more than \$25,000 to more than \$5,000 the threshold amount of sales and use tax remitted by each person doing business within a taxing jurisdiction for which the comptroller must provide the sales and use tax information to the taxing jurisdiction.

**Senate Bill 1927**

**Effective:** 6-17-11

**Senate Author:** Zaffirini et al.

**House Sponsor:** Garza

Senate Bill 1927 amends the Tax Code to add a temporary provision authorizing a volunteer firefighter or emergency medical services organization that qualifies for a limited sales, excise, and use tax exemption to hold 10 tax-free sales or auctions during a calendar year, with each tax-free sale or auction limited to a duration of not more than 72 hours. The bill exempts from the use tax the storage, use, or consumption of a taxable item that is acquired from such a qualified organization at a tax-free sale or auction and that is exempted from sales taxes until the item is resold or subsequently transferred. The authorization expires September 1, 2014.

**The summaries for the following bills are in the listed chapters:**

House Bill 11 - Alcoholic Beverages

House Bill 1118 - Property Interests and Housing

House Bill 2033 - Alcoholic Beverages

House Bill 2582 - Alcoholic Beverages

Senate Bill 1 (1st C.S.) - Appropriations and State Finance

Senate Bill 201 - Military Forces and Veterans

Senate Bill 402 - Property Interests and Housing

Senate Bill 516 - Military Forces and Veterans

Senate Bill 520 - Local Government

Senate Bill 582 - Business and Commerce

Senate Bill 762 - Property Interests and Housing

Senate Bill 934 - Criminal Justice

Senate Bill 977 - Economic Development





# Transportation

This chapter covers legislation on issues relating to transportation, including transportation finance and administration, driver's licenses, motor vehicles, rules of the road, and the state highway system. Legislation relating to vehicle emissions and alternatively fueled vehicles is in the **Environment** chapter. Legislation about transportation districts and authorities or the transportation-related powers of other special districts is in the **Special Districts** chapter, and legislation affecting vehicle storage and towing is in the **Occupational Regulation** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

## General

### **House Bill 699**

**Effective:** 9-1-11

**House Author:** Deshotel

**Senate Sponsor:** Lucio

House Bill 699 amends Transportation Code provisions relating to the port access account fund. Among other provisions, the bill clarifies that the fund is for financing projects related to maritime ports and for maritime port studies. The bill also requires the Port Authority Advisory Committee to update biennially, rather than annually, the port capital program and a report that includes a list of projects that have been recommended by the committee to receive money from the fund.

### **House Bill 1750**

**Effective:** 6-17-11

**House Author:** Darby

**Senate Sponsor:** Williams

House Bill 1750 amends the Transportation Code to authorize the executive director of the Texas Department of Transportation to issue an order authorizing the department to lease rolling stock and to contract with a qualified person or rail operator to operate rolling stock if the director determines that a natural or man-made condition exists that threatens a department rail facility or the provision of safe and efficient rail services using a department rail facility and the condition threatens health, life, or property in the affected area. The bill prohibits such an order from taking effect until reasonable notice is given in a specified manner and requires the order to expire not later than the 30th day after the date the order is issued. The bill authorizes the director to amend, modify, or rescind an order while the order is effective and to issue one or more successive orders.

The bill prohibits the department from using department employees to operate rolling stock and authorizes the department to enter into a contract with a qualified person or rail operator to operate rolling stock, as authorized by an order, for a period not to exceed 90 days without using competitive bidding procedures if the department attempts to negotiate with at least three qualified persons during the contracting process. The bill requires the department to send a copy of such a contract to the Legislative Budget Board immediately after the department enters into the contract. The bill authorizes the department to use any available funds to implement the bill's provisions and requires the department to attempt to recover any state funds used for that purpose.

### **House Bill 2017**

**Effective:** 9-1-11

**House Author:** McClendon et al.

**Senate Sponsor:** Williams

House Bill 2017 enacts a number of provisions relating to the Texas Department of Motor Vehicles (TxDMV). Among other provisions, the bill amends the Occupations Code to transfer from the board of TxDMV to TxDMV certain powers relating to the sale or lease of motor vehicles, including certain powers relating to license requirements; license expiration and

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renewal; dealers; warranties; and manufacturers, distributors, and representatives. The bill amends the Transportation Code to:

- provide for the titling and registration of a vehicle if the county in which the vehicle owner resides has been declared by the governor as a disaster area;
- authorize the board of TxDMV to implement an electronic titling system and provide for the filing of a license application and the issuance of a license by electronic means;
- amend the general rule requiring registration of a motor vehicle, trailer, or semitrailer to require a vehicle owner to register a vehicle not more than 30 days after purchasing the vehicle or becoming a resident of Texas;
- require TxDMV to deny registration of a commercial motor vehicle, truck-tractor, trailer, or semitrailer under certain conditions relating to the status of the applicant;
- authorize TxDMV to require an applicant for vehicle registration to provide current personal identification as determined by TxDMV rule and prohibit TxDMV from printing any required identification number on the title; and
- authorize a county tax assessor-collector to license franchised and nonfranchised motor vehicle dealers to title and register motor vehicles in accordance with rules adopted by TxDMV.

The bill also authorizes TxDMV to protect and use intellectual property and publications, enter into an interlocal agreement with one or more local governments, and conduct public service educational campaigns related to its functions. The board of TxDMV, by rule, is authorized to delegate to one or more board members or TxDMV employees, as specified by the bill, any power relating to a contested case hearing, final order, or complaint investigation. The bill amends the Family Code and the Government Code to revise provisions relating to certain committees and TxDMV.

### **House Bill 2357**

**Effective:** See below

**House Author:** Pickett

**Senate Sponsor:** Williams

House Bill 2357 amends the Transportation Code to update and reorganize Chapters 501, 502, 504, and 520, relating to the Texas Department of Motor Vehicles (TxDMV) and certificates of title, vehicle registration, license plates, and miscellaneous provisions, respectively. The bill transfers, renumbers, amends, and repeals provisions in those chapters and other chapters of the Transportation Code. The bill includes numerous technical and conforming changes. Among other provisions, House Bill 2357:

- provides for the titling and registration of a vehicle if the county in which the vehicle owner resides has been declared a disaster area by the governor;
- authorizes TxDMV to require an applicant for a title or vehicle registration to provide current personal identification as determined by TxDMV rule and prohibits TxDMV from printing any required identification number on the title;
- authorizes the board of TxDMV to implement an electronic titling system and provides for the payment of fees for vehicle titling or registration by electronic means;
- amends the general rule requiring registration of a motor vehicle, trailer, or semitrailer to require a vehicle owner to register a vehicle not more than 30 days after purchasing the vehicle or becoming a resident of Texas;
- requires TxDMV to deny registration of a commercial motor vehicle, truck-tractor, trailer, or semitrailer under certain conditions relating to the status of the applicant;

- removes a provision that conditioned the authority of a person eligible for specialty license plates for a classic motor vehicle or travel trailer to instead use certain state-issued license plates on whether the plates were approved for the vehicle before January 1, 2011;
- authorizes, rather than requires, TxDMV to enter into a contract with a private vendor for the marketing and sale of certain specialty license plates;
- authorizes a county tax assessor-collector to license franchised and non-franchised motor vehicle dealers to title and register motor vehicles in accordance with rules adopted by TxDMV; and
- requires TxDMV to conduct a study in consultation with the Department of Public Safety on the consolidation of similar information that is collected separately by each agency.

The bill also amends the Health and Safety Code and the Occupations Code to make conforming changes and amends the Occupations Code to authorize TxDMV to impose an administrative penalty on a salvage vehicle dealer who violates the law governing such dealers. The bill takes effect January 1, 2012, except for provisions relating to an administrative penalty against a salvage vehicle dealer and to specialty license plates for classic motor vehicles and travel trailers, which take effect September 1, 2011. Provisions relating to the marketing of specialty license plates through a contract with a private vendor are effective September 1, 2014.

**House Bill 3771**  
**Effective:** 9-1-11

**House Author:** Harper-Brown  
**Senate Sponsor:** Williams

House Bill 3771 amends the Transportation Code to authorize the Texas Department of Transportation, on application by a railroad company and by rule, to adopt safety standards for high-speed rail systems for that railroad company and to impose a reasonable fee on the railroad company to recover the department's costs of administering this provision. A railroad company is not required to submit an application to the department if the company is operating under safety standards approved by the Federal Railroad Administration or another federal agency.

**Senate Bill 816**  
**Effective:** 9-1-11

**Senate Author:** Lucio  
**House Sponsor:** Lucio III

Senate Bill 816 amends the Transportation Code to add the port director of the Port of Brownsville or the port director's designee to the appointed members of the Border Trade Advisory Committee. The bill also requires the Texas Transportation Commission to consider potential sources of infrastructure funding at border maritime ports in determining action to be taken on the committee's recommendations.

## **Driver's Licenses and Driver Education**

**House Bill 90**  
**Effective:** 9-1-11

**House Author:** Cook  
**Senate Sponsor:** Birdwell

Previous law authorized the Department of Public Safety (DPS) to suspend a hardship license if the license holder was convicted of a moving violation. House Bill 90 amends the Transportation Code to require DPS to suspend such a license if the license holder is convicted of two or more moving violations committed within a 12-month period. The bill repeals a provision of the Transportation Code authorizing DPS to waive the driver training course requirement for a hardship license and issue a temporary license under certain circumstances.

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**House Bill 343**  
**Effective:** 9-1-11

**House Author:** Fletcher  
**Senate Sponsor:** Huffman

Under previous law, the individual record of a driver's license holder employed as a peace officer, firefighter, or emergency medical services employee of the state, a political subdivision of the state, or a special purpose district was prohibited from including information relating to a traffic accident that occurred while the peace officer, firefighter, or emergency medical services employee was driving an official vehicle in the course and scope of the license holder's official duties contingent on the accident occurring during an emergency. House Bill 343 amends the Transportation Code to make that prohibition contingent instead on the accident resulting in damages to property of less than \$1,000 or a determination, after an investigation, that the peace officer, firefighter, or emergency medical services employee involved in the accident was not at fault.

**House Bill 588**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Whitmire

House Bill 588 amends the Transportation Code to require the Department of Public Safety (DPS) to offer an option for a single up-front payment to allow a person who is assessed an annual surcharge under the Driver Responsibility program to pay in advance the total amount owed for the 36-month period for which the surcharge is assessed. The bill requires notice of the surcharge to notify a driver's license holder of the total amount owed for the 36-month period and the advance payment option. The bill requires, rather than authorizes, DPS by rule to offer a holder of a driver's license on which a surcharge has been assessed an incentive for compliance with the law.

**House Bill 2256**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Williams

House Bill 2256 amends the Government Code to authorize the Department of Public Safety (DPS) to abate or defer a mandatory suspension or revocation of a license, certificate, permit, or other authorization issued by DPS if the license holder presents acceptable evidence that the license holder is the victim of identity theft and that the person against whom a criminal complaint for fraudulently using or possessing identifying information has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

**House Bill 2466**  
**Effective:** 9-1-11

**House Author:** Phillips  
**Senate Sponsor:** Carona

House Bill 2466 amends the Transportation Code to include among the conditions that must be met for the Department of Public Safety (DPS) to issue a Class C driver's license to an applicant under 18 years of age the submission by the applicant to DPS of written parental or guardian permission for a school administrator or law enforcement officer to notify DPS in the event that the person has been absent from school for at least 20 consecutive instructional days. The bill clarifies the prohibition against a person under 18 years of age operating a motor vehicle while using a wireless communications device and the prohibition against a person under 17 years of age operating a motorcycle or moped while using a wireless communications device. The bill repeals a provision of the Transportation Code relating to a memorandum of understanding between DPS and the Texas Education Agency (TEA) that allows DPS access to TEA's electronic enrollment records to verify a student's enrollment in a public school.

**Senate Bill 132**  
**Effective:** 9-1-11

**Senate Author:** Wentworth  
**House Sponsor:** Flynn

Senate Bill 132 amends the Transportation Code to make an application submitted for an original, renewal, or duplicate driver's license or personal identification certificate constitute registration under the Military Selective Service Act for an applicant subject to registration who has not previously registered. The bill requires the Department of Public Safety to send in an electronic format to the United States Selective Service System information from the application required for selective service registration and to provide written notice to an applicant that the license or certificate application also constitutes registration and that information is available regarding alternative service options for applicants who object to military service for religious or other conscientious reasons.

**Senate Bill 1292**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Fletcher et al.

Senate Bill 1292 amends the Transportation Code to require the Department of Public Safety (DPS) by rule to adopt procedures for the issuance of a driver's license to a peace officer that omits the license holder's actual residence address and includes, as an alternative, an address that is in the municipality or county of the peace officer's residence and is acceptable to DPS. The bill sets out application procedures for such a license.

**Senate Bill 1330**  
**Effective:** See below

**Senate Author:** Watson  
**House Sponsor:** Naishtat

Senate Bill 1330 amends the Education Code to provide for approval by the commissioner of education of a driving safety course designed for drivers younger than 25 years of age. The bill establishes certain requirements for such a course and requires a course approved for use before January 1, 2012, to comply with the requirements not later than that date. These provisions take effect September 1, 2011. The bill amends the Code of Criminal Procedure, effective January 1, 2012, to authorize a judge to require a defendant younger than 25 years of age receiving deferred disposition for certain traffic offenses to complete such a course.

**Senate Bill 1608**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Rodriguez

Senate Bill 1608 amends the Transportation Code to enhance the penalty for the offense of operating a motor vehicle without a driver's license if a person also is in violation of the financial responsibility requirement and causes or is at fault in a motor vehicle accident that results in serious bodily injury to or the death of another person. In such a case, the offense is a Class A misdemeanor.

## **Finance, Planning, and Administration of Transportation Systems**

**House Bill 563**  
**Effective:** 9-1-11

**House Author:** Pickett et al.  
**Senate Sponsor:** Nichols

House Bill 563 amends Transportation Code provisions relating to the purposes and designation of a transportation reinvestment zone. The bill authorizes a municipality or county to establish a zone for any transportation project and sets out certain requirements if a project is subject to oversight by the Texas Department of Transportation or is on the state highway system or located in the state highway right-of-way. The bill prohibits a municipality or county that



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designates a zone from being penalized with a reduction in traditional transportation funding, and it authorizes a portion of the tax increment generated from certain sales and use taxes attributable to a zone to be used for a pass-through toll project if certain procedures are followed. The bill authorizes a municipality or county to contract with an entity to develop a transportation project in a zone and, among other provisions, authorizes a county to assess all or part of the cost of a project against property within the zone and to pledge all or part of the revenue from the assessment to that entity. The bill authorizes the boundaries of a zone to be amended at any time, with certain exceptions relating to whether revenue from a property tax assessment or tax increment account has been pledged to secure bonds for a transportation project in the zone.

### **House Bill 630**

**Effective:** 9-1-11

**House Author:** Pickett et al.

**Senate Sponsor:** Nichols

House Bill 630 adds a subchapter to the Transportation Code to establish an environmental review process for certain highway projects. The bill requires the Texas Transportation Commission to adopt rules to implement the process not later than March 1, 2012. The bill defines the roles and responsibilities of the Texas Department of Transportation and a participating local government sponsor in the preparation and review of environmental review documents and establishes certain review deadlines. The bill requires the department to report semiannually and annually to the commission and the legislature, respectively, on projects being processed. The bill authorizes the department, a county, a regional tollway authority, or a regional mobility authority to provide financial assistance to a state or federal agency to expedite an environmental review. The bill also requires the department by rule to establish a process to certify department employees to work on environmental review documents and procedures to coordinate the review of a transportation project by other state agencies. The bill amends the Parks and Wildlife Code to set a deadline for the Parks and Wildlife Department to respond to a request for comments from the department regarding a transportation project.

### **House Bill 1201**

**Effective:** 6-17-11

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Hegar

House Bill 1201 amends the Transportation Code to repeal the authority for the establishment and operation of the Trans-Texas Corridor and amends that code and the Tax Code to remove statutory references to the corridor. The bill also authorizes the Texas Transportation Commission to allow an oversize or overweight vehicle to be operated on a lane designated as an exclusive lane on the state highway system if the operation is supported by an engineering and traffic study that includes specified analyses and makes the authorization inapplicable to certain vehicles and roadways. In addition, the bill establishes certain conditions under which the commission may establish a speed limit not to exceed 85 miles per hour on a part of the state highway system.

### **Senate Bill 19**

**Effective:** 6-17-11

**Senate Author:** Nichols et al.

**House Sponsor:** Smith, Wayne

Senate Bill 19 adds a chapter to the Transportation Code to address the development of toll projects, other than certain excluded projects, located in the territory of a local toll project entity. The bill describes a process to determine the entity that has primacy to develop such a toll project and establishes a timeline for toll project phases. The bill authorizes a local toll project entity or the Texas Department of Transportation to initiate the process for a toll project and establishes that a local toll project entity has the first option to develop the project. If the local toll project entity fails or declines to exercise this option, or fails or declines to advertise for procurement or enter into a construction contract within the prescribed time frames, the department has the option to develop the project. The process may be reinitiated by either party if it concludes

without either party entering into a contract for construction of the toll project. The bill requires the Texas Transportation Commission and the department to allow a local toll project entity that has exercised its option to develop a project to use state highway right-of-way and requires the entity to reimburse the department for use of the right-of-way under certain conditions. The bill requires money received by the department as reimbursement to be used to fund additional projects in the department district in which the toll project is located.

Senate Bill 19 also addresses state highway toll projects. The bill sets out a formula for the distribution of surplus toll revenue of a toll project to other projects within a region, rather than a department district, in which any part of the toll project is located. The bill makes provisions relating to toll projects in certain counties also apply to existing toll projects of the counties. The bill repeals provisions relating to state highway toll projects of local toll project entities. The bill also sets out factors that must be considered in making any determination of value for a public-private partnership arrangement involving a highway toll project.

**Senate Bill 548**

**Effective:** See below

**Senate Author:** Nichols et al.

**House Sponsor:** Darby et al.

Senate Bill 548 adds a subchapter to the Transportation Code to establish an environmental review process for certain highway projects. The bill requires the Texas Transportation Commission to adopt rules to implement the process not later than March 1, 2012. The bill defines the roles and responsibilities of the Texas Department of Transportation and a participating local government sponsor in the preparation and review of environmental review documents and establishes certain review deadlines. The bill requires the department to report semiannually and annually to the commission and the legislature, respectively, on projects being processed. The bill authorizes the department, a county, a regional tollway authority, or a regional mobility authority to provide financial assistance to a state or federal agency to expedite an environmental review. The bill also requires the department by rule to establish a process to certify department employees to work on environmental review documents and procedures to coordinate the review of a transportation project by other state agencies. The bill amends the Parks and Wildlife Code to set a deadline for the Parks and Wildlife Department to respond to a request for comments from the department regarding a transportation project.

Senate Bill 548 takes effect September 1, 2011, except for provisions relating to the authorization to provide financial assistance to expedite an environmental review, which take effect June 17, 2011.

**Senate Bill 731**

**Effective:** 6-17-11

**Senate Author:** Nichols

**House Sponsor:** Kolkhorst

Senate Bill 731 amends Transportation Code provisions relating to the attorney general's legal sufficiency review of a comprehensive development agreement. The bill requires a toll project entity that submits an agreement to the attorney general to pay a nonrefundable examination fee and to include a complete transcript of proceedings related to the agreement and requires the attorney general to provide a determination not later than 60 business days after receiving the fee and the transcript. The bill authorizes the attorney general to extend the review period for not more than 30 business days if necessary and authorizes a toll project entity to supplement the transcript or amend the agreement to facilitate a redetermination by the attorney general. The bill also prescribes certain limitations on the amount of the fee and authorizes a toll project entity to collect or seek reimbursement of the fee from the private participant in the agreement.

**Senate Bill 959**  
**Effective:** 6-17-11

**Senate Author:** Wentworth  
**House Sponsor:** Pickett

Senate Bill 959 amends the Transportation Code to authorize the Texas Department of Transportation to use alternative tolling methods to permit the registered owner of a vehicle that is driven or towed through a toll collection facility to pay the toll at a later date. The bill authorizes the department to use automated enforcement technology to identify the registered owner of the vehicle and requires the department to send a notice of the total amount due to the registered owner. The bill sets out requirements for the notice. Regarding tolling methods generally, the bill allows the department to send a notice of nonpayment to an alternate address for the registered owner of a vehicle as an alternative to sending the notice to the address on record with the Texas Department of Motor Vehicles. The bill also authorizes the department to impose one administrative fee that covers multiple events of nonpayment. The bill adds provisions relating to a refund from an electronic toll collection customer account and to the use of such an account to pay for parking services offered by a governmental or private entity. The bill clarifies that the department's authority to use automated enforcement technology to aid in the collection of tolls includes producing an image showing a vehicle's dimensions, the presence of a trailer, and the number of axles.

**Senate Bill 1420**  
**Effective:** See below

**Senate Author:** Hinojosa et al.  
**House Sponsor:** Harper-Brown et al.

Senate Bill 1420 amends provisions of the Parks and Wildlife Code, Occupations Code, and Transportation Code relating to the continuation and functions of the Texas Department of Transportation. The bill continues the department until September 1, 2015, requires the rural member of the five-member Texas Transportation Commission to be a registered voter of a county with a population of less than 150,000, and prescribes the duties of the chief financial officer of the department. The bill also requires the department to operate a telephone hotline to report alleged fraud, waste, or abuse or a violation of the department's ethics policy and to establish a compliance program to oversee criminal or other investigations occurring on department property or involving department employees.

In addition to across-the-board sunset provisions and other provisions, Senate Bill 1420 establishes an environmental review process for certain highway projects and requires the commission to adopt rules to implement the process not later than March 1, 2012. The bill defines the roles and responsibilities of the Texas Department of Transportation and a local government sponsor in the preparation and review of environmental review documents and establishes certain review deadlines. The bill requires the department to report to the commission and the legislature on projects being processed, and it requires the department by rule to establish an environmental review certification process for department employees. The bill also authorizes the department, a county, a regional tollway authority, or a regional mobility authority to provide financial assistance to a state or federal agency to expedite an environmental review.

Current law requires the department to develop a statewide transportation plan that contains all modes of transportation. Senate Bill 1420 requires the plan to cover a 24-year period and to contain, among other items, specific, long-term transportation goals for the state and measurable targets for each goal. The bill requires the department to analyze its progress in attaining those goals and to make the information available on its Internet website and to also make available reporting systems for project information and transportation expenditures. A unified transportation program to guide the development of and authorize construction of transportation projects over a 10-year period also is required. The bill requires the department to update the program annually to include the annual funding forecast and list of major transportation projects required by the

bill and requires the commission to use the program's funding categories to specify the formulas for allocating funds to districts and metropolitan planning organizations.

Senate Bill 1420 authorizes the department or certain regional mobility authorities to enter into a comprehensive development agreement with a private entity for certain specified highway or transportation projects, as appropriate, and terminates that authority, with a certain exception, on August 31, 2015. The bill establishes deadlines for obtaining the appropriate environmental clearance and developing a full financial plan for the projects and requires the deadlines to be met before the department or an authority may enter into an agreement. The bill also authorizes the department or a regional mobility authority to use the design-build method to construct or improve a highway project with a construction cost estimate of at least \$50 million or to construct, finance, or improve a transportation project, as appropriate. The bill prohibits until August 31, 2015, the department from entering into more than three design-build contracts in each fiscal year and limits an authority to two contracts in any fiscal year. The bill prohibits a contract from granting to a private entity a leasehold interest in a project or the right to operate or retain revenue from the operation of a project. The bill sets out procedures and requirements that the department or an authority and a design-build contractor must follow.

Senate Bill 1420 transfers the regulation of oversize and overweight vehicles from the department to the Texas Department of Motor Vehicles by January 1, 2012. The bill specifies certain powers and duties that are retained by the department, including the authority to set maximum weights. The bill also makes it an offense to erect an off-premise sign on a rural road without a license issued by the commission and establishes requirements for such a license. Provisions relating to comprehensive development agreements for certain projects take effect June 17, 2011; all other provisions take effect September 1, 2011.

**Senate Bill 1719**  
**Effective:** 6-17-11

**Senate Author:** Williams  
**House Sponsor:** Fletcher

Senate Bill 1719 amends the Transportation Code to establish that the authority of the Texas Department of Transportation to enter into a comprehensive development agreement relating to the Grand Parkway (State Highway 99) has no effect on the department's obligations under an existing agreement relating to that highway.

## **Motor Vehicles-Commercial**

**House Bill 422**  
**Effective:** 6-17-11

**House Author:** Guillen  
**Senate Sponsor:** Williams

House Bill 422 amends Transportation Code provisions relating to a permit to move certain heavy equipment to authorize the Texas Transportation Commission, by rule, to authorize the Texas Department of Transportation (TxDOT) to issue a consolidated permit to a motor carrier, as defined in motor carrier registration provisions, to transport multiple loads of the same commodity over a state highway if all of the loads are traveling between the same general locations. The bill sets out requirements for the commission rules and for a permit application and specifies the conditions under which TxDOT may suspend such a permit.

House Bill 422 authorizes TxDOT to issue a single trip permit for a vehicle that exceeds the length limitation established in provisions relating to an annual permit for the operation of superheavy or oversize equipment if on completion of a route and engineering study TxDOT determines that the additional length can be transported safely. The bill authorizes TxDOT to issue a permit for a vehicle that exceeds the maximum weight limit because of an auxiliary power unit if TxDOT finds that such an exemption would reduce nitrogen oxide emissions.

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**House Bill 441**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Williams

Under previous law, the yearly registration fee for a semitrailer used as described by law was based on whether a permit for excess axle or gross weight had been issued for the power unit propelling the semitrailer, with a lower fee of \$15 set if the permit had not been issued. House Bill 441 amends the Transportation Code to set the yearly registration fee for any semitrailer used in the prescribed manner at \$15. The bill increases from \$75 to \$90 the base permit fee that must be paid to qualify for a permit for excess axle or gross weight and increases from \$25 to \$40 the portion of that fee that the comptroller is required to deposit to the credit of the state highway fund.

**House Bill 1330**  
**Effective:** 9-1-11

**House Author:** Raymond  
**Senate Sponsor:** Zaffirini

Under current law, certain vehicles or vehicle combinations are required to be equipped with safety guards or flaps. House Bill 1330 amends the Transportation Code to require vehicles or vehicle combinations with at least two super single tires on the rearmost axle to be equipped with safety guards or flaps.

**House Bill 1523**  
**Effective:** 9-1-11

**House Author:** Phillips et al.  
**Senate Sponsor:** Watson

Previous law made it an offense punishable by a fine of not less than \$200 or more than \$1,000 to solicit the transportation of household goods for compensation without registration. House Bill 1523 amends the Transportation Code to make it a Class C misdemeanor to engage in or solicit the transportation of household goods for compensation without registration and enhances the penalty to a Class B or Class A misdemeanor for a second or subsequent offense.

**House Bill 3309**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Nichols

House Bill 3309 amends the Transportation Code to transfer the authority to set the maximum weight of a vehicle that may be moved over a state highway or farm or ranch road from the Texas Transportation Commission to the executive director of the Texas Department of Transportation.

## Motor Vehicles-Registration and Titling

**House Bill 890**  
**Effective:** 9-1-11

**House Author:** Howard, Charlie et al.  
**Senate Sponsor:** Davis

House Bill 890 amends the Transportation Code to require the Texas Department of Motor Vehicles to issue specialty license plates for a custom vehicle or street rod and adds provisions relating to the required equipment on such a vehicle or rod. The bill requires, on initial registration of a custom vehicle or street rod, the vehicle owner to provide acceptable proof that the vehicle passed a safety inspection and requires the department to create a safety inspection process for inspecting a custom vehicle or street rod. The bill sets out certain information that must be listed on a certificate of title and documented by the vehicle owner if the department issues a certificate of title for a custom vehicle or street rod.



**House Bill 1376**  
**Effective:** 9-1-11

**House Author:** Bohac  
**Senate Sponsor:** Ellis

House Bill 1376 amends the Transportation Code to clarify the definition of “junked vehicle” for purposes of abatement of a public nuisance to mean a vehicle that is self-propelled and meets certain criteria, including that it displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate.

**House Bill 1422**  
**Effective:** 9-1-11

**House Author:** Truitt  
**Senate Sponsor:** Watson

Under current law, an insurance company that acquires a salvage motor vehicle or nonrepairable motor vehicle is prohibited from selling the vehicle unless the Texas Department of Motor Vehicles has issued a salvage vehicle title or nonrepairable vehicle title for the vehicle. House Bill 1422 amends the Transportation Code to establish a process for issuing a title for such a vehicle, depending on whether the insurance company takes ownership or possession of the vehicle or requests a salvage pool operator to take possession. If the insurance company takes ownership or possession of the vehicle, the title application requirements depend on whether the vehicle is covered by a title that the company is unable to obtain, a title for which the company is unable to obtain proper assignment, or an out-of-state ownership document. If a salvage pool operator takes possession of the vehicle, the title application requirements include providing evidence that proper notice was given to the motor vehicle owner and any lienholder regarding removal of the vehicle from the salvage pool operator’s possession. The bill requires a salvage pool operator that sells a vehicle under these provisions to retain from the proceeds certain costs and requires any excess proceeds to escheat to the State of Texas if the owner and lienholder of the vehicle cannot be located.

**House Bill 1473**  
**Effective:** 9-1-11

**House Author:** Scott  
**Senate Sponsor:** Hinojosa

Under current law, it is an offense to manufacture, sell, possess, or use a counterfeit disabled parking placard. House Bill 1473 amends the Transportation Code to also make it an offense to alter a disabled parking placard or knowingly park a vehicle displaying an altered placard in a parking space or area designated for persons with disabilities.

**House Bill 1541**  
**Effective:** 9-1-11

**House Author:** McClendon  
**Senate Sponsor:** Wentworth

House Bill 1541 amends the law to require the Automobile Burglary and Theft Prevention Authority to develop and use standard performance measures for each category of grants provided by the authority, ensure that grants are used to help increase certain outcomes, and allocate grant funds primarily based on certain theft rates, rather than on geographic distribution. The bill requires the authority’s plan of operation to be updated biennially and filed with the legislature on or before December 1 of each even-numbered year. Rather than requiring the authority to develop a statewide motor vehicle registration program to be administered by the Department of Public Safety, the bill authorizes the department to administer the program and requires the department to collect certain data regarding motor vehicles enrolled in the program. The bill increases the fee paid by a motor vehicle insurance company to the authority and provides that 50 percent of the fee may be appropriated only to the authority for purposes relating to the prevention of automobile burglary and theft.

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**House Bill 2080**  
**Effective:** 6-17-11

**House Author:** King, Tracy O.  
**Senate Sponsor:** Uresti

House Bill 2080 amends the Transportation Code to remove the condition making the authorization for an advanced practice nurse or physician assistant to certify a person as eligible for disabled parking privileges on the person's first application for a disabled parking placard apply only to a person who resides in a county with a population of 125,000 or less.

**House Bill 2575**  
**Effective:** 9-1-11

**House Author:** Phillips  
**Senate Sponsor:** Harris

Previous law made it voluntary for a lienholder to participate in a system to record a security interest in a motor vehicle electronically instead of on a certificate of title. House Bill 2575 amends the Transportation Code to authorize the Texas Department of Motor Vehicles to require a lienholder to participate in the system, with certain exceptions. Exceptions for certain depository institutions expire January 1, 2013. The bill requires the department, by rule, to establish a reasonable schedule of compliance for each category of lienholder that the department requires to participate in the system and prohibits the department from taking certain actions relating to a lienholder's use of an intermediary to access the system.

**House Bill 2960**  
**Effective:** 6-17-11

**House Author:** Darby et al.  
**Senate Sponsor:** Hinojosa

House Bill 2960 amends the Transportation Code to add a vehicle used to participate in equine activities or attend livestock shows to the vehicles that are considered to be used primarily for farm purposes under provisions relating to the registration of certain commercial vehicles.

**Senate Bill 197**  
**Effective:** 9-1-11

**Senate Author:** West  
**House Sponsor:** Phillips

Current law governing the compulsory inspection of vehicles authorizes the Department of Public Safety (DPS) to impose an administrative penalty against a person who knowingly violates the law or a rule adopted under the law. Senate Bill 197 amends the Transportation Code to authorize the Texas Commission on Environmental Quality to impose an administrative penalty for each violation of the law relating to an emissions inspection. The bill requires an application for certification from certain inspection stations that have been convicted of a violation relating to an emissions inspection to be accompanied by a surety bond in the amount of \$5,000. The bill increases the fee for certification as an inspector or as an inspection station and prescribes the fee for certification as an inspection station if an applicant has been convicted of one or more violations of the law relating to an emissions inspection. The bill also establishes civil penalties for a violation of the law relating to an emissions inspection and authorizes a local district or county attorney to bring suit to collect the penalties.

Senate Bill 197 creates the offense of fraudulent emissions inspection of a motor vehicle and establishes the penalty for such an offense. The bill sets out conditions under which an inspection station is not subject to a penalty or criminal prosecution for an act of an employee and under which a station is subject to prosecution for such an act. The bill requires DPS and the Texas Department of Motor Vehicles to conduct a study regarding an electronic system to consolidate vehicle inspection and registration and to report the results of the study to the legislature.

**Senate Bill 257**  
**Effective:** 9-1-11

**Senate Author:** Carona et al.  
**House Sponsor:** Phillips et al.

Senate Bill 257 amends the Transportation Code to require the Texas Department of Transportation to issue "Choose Life" license plates and to deposit the fee for the plates, after

deduction of the department's administrative costs, to the credit of the newly created Choose Life account administered by the attorney general. The bill authorizes the attorney general to spend money credited to the account only to award grants to an eligible organization described by the bill or to defray administrative costs and authorizes money received by an eligible organization to be spent only to pay for certain expenses relating to adoption. The bill creates the Choose Life Advisory Committee to assist the attorney general in awarding the grants.

**Senate Bill 1035**  
**Effective:** Vetoed

**Senate Author:** Williams  
**House Sponsor:** Harless

Senate Bill 1035 amends the Transportation Code to prohibit, effective January 1, 2012, a person from acting as a motor vehicle title service or title service runner unless that person holds a permit issued by the county, if required by the county where the titles are required to be filed, and a license issued by the Texas Department of Motor Vehicles. The bill makes license requirements in certain counties apply instead to permit requirements in a county that requires a motor vehicle title service permit. The bill establishes state license application requirements, including surety bond requirements, and requires the holder of a motor vehicle title service license to maintain records as required by department rule. The bill also establishes certain remedies, including criminal and civil penalties, for a violation of a law or rule adopted by the department or a county tax assessor-collector, as applicable.

Reason Given for Veto: "Senate Bill 1035 would expand county permitting of motor vehicle title service companies and create a state licensing requirement administered by the Texas Department of Motor Vehicles (DMV). The bill would establish additional criminal and civil penalties, including a state jail felony if a service company violated a license requirement.

"While the state may benefit from the DMV performing a licensing or oversight function, this bill would not address the burden imposed on motor vehicle title service companies by a state licensing requirement, nor would it address the inherent problems of the creation of 254 different county registration processes. The dual state and county registration and licensing procedures, and different associated fees, are too cumbersome.

"Senate Bill 1035 could also have unintended consequences through its definition of a motor vehicle title service company. That definition would include any individual directly or indirectly assisting with the registration process. It would be problematic that a friend or family member who is familiar with the registration process could not assist, if any compensation was received, without being subject to civil and criminal penalties.

"Because I appreciate the goal of Senate Bill 1035, I am requesting the DMV to work with the motor vehicle title service industry and county governments to find a reasonable solution that does not add layers of government, but protects Texans against individuals operating with the intent to defraud consumers or the state."

**Senate Bill 1057**  
**Effective:** 9-1-11

**Senate Author:** Wentworth  
**House Sponsor:** Harper-Brown et al.

Current law requires the purchaser or transferee of a used vehicle to file certain documents to continue the remainder of the vehicle's registration period at the time of the sale or transfer. Senate Bill 1057 amends the Transportation Code to make the requirement apply if neither the seller nor the purchaser of the vehicle holds a general distinguishing number issued to a dealer. If the seller of a used vehicle is a dealer, the bill requires the dealer to issue to the purchaser new registration documents for an entire registration year.

**Senate Bill 1386**  
**Effective:** 9-1-11

**Senate Author:** Lucio  
**House Sponsor:** Oliveira

Current law authorizes a county assessor-collector or the Texas Department of Motor Vehicles to refuse to register a vehicle if the assessor-collector or department receives information that the

vehicle owner failed to take certain actions and authorizes a county or municipality to contract with a specified entity to provide that information to the assessor-collector or department, as appropriate. Senate Bill 1386 amends the Transportation Code to authorize a county or municipality that has such a contract to impose an additional \$20 fee on a person who fails to take the required actions. The bill also authorizes a county assessor-collector or the department to refuse to register a motor vehicle if the assessor-collector or department receives information that the vehicle owner failed to appear in connection with a complaint, citation, information, or indictment in a court in which a criminal proceeding is pending against the owner.

## **Motor Vehicles-Rules of the Road**

**House Bill 42**  
**Effective:** 9-1-11

**House Author:** Menendez  
**Senate Sponsor:** Van de Putte

House Bill 42 amends the Transportation Code provision imposing certain duties on the operator of a motor vehicle involved in an accident resulting only in damage to a fixture or landscaping on or adjacent to a highway to also include damage to a structure adjacent to a highway.

**House Bill 109**  
**Effective:** 9-1-11

**House Author:** Brown  
**Senate Sponsor:** Ogden

House Bill 109 amends the Transportation Code to authorize a municipality or county to temporarily lower the speed limit on certain roads and highways at a vehicular accident reconstruction site. The bill sets out the actions that are required of a designated official who temporarily lowers a speed limit and describes the notice that the official must provide to the Texas Department of Transportation. The bill also establishes the period that a temporary speed limit is effective.

**House Bill 378**  
**Effective:** 9-1-11

**House Author:** Guillen  
**Senate Sponsor:** Williams

House Bill 378 amends the Transportation Code to make requirements for the operator of a vehicle relating to vacating a lane or reducing speed when passing a stationary authorized emergency vehicle using visual signals apply to a stationary tow truck. The bill exempts a tow truck that is performing its duties from the prohibition against stopping, standing, or parking a vehicle on the main traveled part of a highway outside a business or residence district.

**House Bill 885**  
**Effective:** 6-17-11

**House Author:** Rodriguez  
**Senate Sponsor:** Watson

House Bill 885 amends the Transportation Code to exclude a traffic-control signal that controls the flow of traffic entering a freeway and a pedestrian-controlled traffic-control signal that displays different colored lights successively when activated by a pedestrian from the type of traffic-control signals that, when not displaying an indication in any of the signal heads, require the operator of a vehicle to stop as if the intersection had a stop sign.

**House Bill 1116**  
**Effective:** 9-1-11

**House Author:** Harper-Brown et al.  
**Senate Sponsor:** Shapiro

House Bill 1116 amends the Transportation Code to prohibit, with certain exceptions, purchase, sale, installation, or use of a device, a mechanism, an instrument, or equipment that

is designed, manufactured, or used to interfere with a radar or laser device used to measure the speed of a motor vehicle. The bill makes it a Class C misdemeanor to violate such a prohibition.

**House Bill 1353**

**Effective:** 9-1-11

**House Author:** Elkins et al.

**Senate Sponsor:** Williams

House Bill 1353 amends Transportation Code provisions relating to speeds that are lawful unless a special hazard exists that requires a slower speed. The bill makes 70 miles per hour a lawful speed on a highway numbered by Texas or the United States outside an urban district and makes 60 mph a lawful speed on a highway that is outside an urban district and not a highway numbered by Texas or the United States. The bill makes an exception for a school bus, requiring the school bus to comply with certain prescribed speeds. The bill removes speeds that are lawful for certain vehicles in nighttime, for certain trucks, and for vehicles outside an urban district for which a speed limit is not otherwise specified. The bill requires an entity that establishes or alters a speed limit on certain highways under authority granted by law to establish the same speed limit for daytime and nighttime and, among other provisions, increases to 75 mph the maximum speed that the entities may set, with a certain exception.

**House Bill 1486**

**Effective:** 6-17-11

**House Author:** Gutierrez et al.

**Senate Sponsor:** Wentworth

House Bill 1486 amends the Transportation Code to extend from one year to two years the posting period for a sign erected by the Texas Department of Transportation under the memorial sign program for victims of certain vehicle accidents. The department is not required to implement the provisions of the bill if the department determines or is informed by the applicable federal agency that doing so would result in the loss of federal funds to Texas; if such a determination is made, the department is required to submit a report not later than January 1, 2013, to the lieutenant governor and speaker of the house of representatives regarding the determination.

**House Bill 1517**

**Effective:** 9-1-11

**House Author:** Isaac

**Senate Sponsor:** Hegar

Current law specifies the required uses of a fine collected by a municipality or county for a violation of a highway law and prescribes the amount that a municipality having a population of less than 5,000 may retain from the fine. The amount is determined by the municipality's revenue from certain other sources for the preceding fiscal year. House Bill 1517 amends the Transportation Code to add a temporary provision, set to expire on September 1, 2021, to authorize an additional source of revenue to be used in determining that amount if the municipality has a population of more than 1,000 but less than 1,200 and part of the municipality's boundary is a river that forms part of the boundary between two counties. The bill also authorizes a county having a population of less than 5,000 to retain from a fine the same amount as a municipality having that population and allows such a county to use the revenue as the county determines appropriate.

**House Bill 1899**

**Effective:** 9-1-11

**House Author:** Pickett et al.

**Senate Sponsor:** Rodriguez

Current law requires the posting of a sign in a school crossing zone regarding the prohibited use of a wireless communication device while operating a motor vehicle. House Bill 1899 amends the Transportation Code to specify that a political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout its jurisdiction is not required to post the sign if the political subdivision posts certain signs regarding the broader prohibition. The bill adds a provision regarding a political subdivision that



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is in compliance with the bill's provisions and the availability of the affirmative defense relating to the posting of a sign in a school crossing zone.

**House Bill 2327**  
**Effective:** Vetoed

**House Author:** McClendon  
**Senate Sponsor:** Wentworth

House Bill 2327 amends the Transportation Code to require the Texas Department of Transportation to establish and operate a motor-bus-only lane pilot program to allow motor buses of certain mass transit entities to operate on a highway shoulder designated by the department. The bill specifies the conditions under which the motor buses may use the shoulder and includes certain required features of the program, requiring the department to fund implementation of the features and to be reimbursed by participating mass transit entities. The bill authorizes the department to cancel the program if the department finds evidence of a trend of increasing vehicle accidents attributable to the operation of buses under the program.

Reason Given for Veto: "House Bill 2327 would allow transit buses to use highway shoulders to pass traffic backups during peak traffic hours in certain urban counties. Currently, highway shoulders may only be used by motorists to pull out of the main lanes of the roadway in the case of a mechanical malfunction or emergency, and to allow the bypass of traffic by emergency vehicles.

"House Bill 2327 is similar to Senate Bill 434, which I vetoed in 2009. While there are new provisions in this bill that attempt to address concerns, including additional training for bus drivers and a provision allowing the Texas Department of Transportation to suspend the program in some instances, allowing highway shoulders to be used by transit buses would leave no emergency lane, confuse drivers as to the purpose of highway shoulders, and endanger motorists, emergency personnel and transit bus passengers."

**House Bill 2469**  
**Effective:** 6-17-11

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 2469 amends the Transportation Code to require the Texas Transportation Commission by rule to establish and administer a memorial sign program to publicly memorialize the victims of motorcycle accidents. The bill establishes requirements for a sign designed and posted under the program and authorizes a person to request that a sign be posted by making an application to the Texas Department of Transportation and submitting a fee to cover the costs of posting the sign. The bill requires the department to erect a sign if the application meets the department's requirements and the applicant pays the memorial sign fee. The bill authorizes a sign to remain posted for one year and to be released to the applicant at the end of the one-year posting period. The bill provides for the removal and replacement of a damaged sign and specifies that its provisions do not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules.

**House Bill 2541**  
**Effective:** 6-17-11

**House Author:** Solomons  
**Senate Sponsor:** Nelson

House Bill 2541 amends the Transportation Code to authorize the residents of a special district that is located in the unincorporated area of a county with a population of less than one million to file a petition with the commissioners court of the county requesting that county enforcement of traffic rules on county roads be extended to roads that are owned or maintained by the district. The bill sets out requirements for the petition and requires the commissioners court by order to extend enforcement to the roads of the district specified in the petition if the commissioners court finds that granting the request is in the interest of the county generally. The order may grant enforcement of some or all traffic rules requested in the petition. As a condition of issuing the order, the commissioners court may require the special district to pay for all or part of the costs of extending the enforcement.

**House Bill 2596**  
**Effective:** 6-17-11

**House Author:** Garza  
**Senate Sponsor:** Wentworth

House Bill 2596 amends the Transportation Code to authorize a municipality with a population of 2,000 or less to lower the speed limit on a one-lane highway in the municipality that is used for two-way access and that is not on the state highway system if the governing body determines that the speed limit on the highway is unreasonable or unsafe.

**House Bill 2981**  
**Effective:** 9-1-11

**House Author:** Hunter  
**Senate Sponsor:** Hegar

House Bill 2981 amends the Transportation Code to create the offense of riding in or on a boat or personal watercraft drawn by a vehicle. The bill makes it an offense for a person to operate a motor vehicle on a highway or street with a child younger than 18 years of age occupying a boat or personal watercraft being drawn by the motor vehicle. It is a defense to prosecution that the person was operating the motor vehicle in a parade or an emergency or on a beach.

**Senate Bill 86**  
**Effective:** 6-17-11

**Senate Author:** Nelson  
**House Sponsor:** Miller, Sid

Senate Bill 86 repeals a provision of the Transportation Code that made provisions relating to municipal contracts for the enforcement of outstanding traffic violation arrest warrants apply only to a home-rule municipality.

## State Highway System-Designations

**House Bill 314**  
**Effective:** 5-12-11

**House Author:** Hardcastle  
**Senate Sponsor:** Estes

House Bill 314 amends the Transportation Code to designate the portion of U.S. Highway 81 from the Texas-Oklahoma border to the northern municipal boundary of Bowie as the Corporal David Slaton Memorial Highway.

**House Bill 367**  
**Effective:** 9-1-11

**House Author:** Orr et al.  
**Senate Sponsor:** Davis

House Bill 367 amends the Transportation Code to revise the portion of State Highway 121 in Tarrant County designated as the Chisholm Trail Parkway.

**House Bill 591**  
**Effective:** 6-17-11

**House Author:** Miller, Doug  
**Senate Sponsor:** Wentworth

House Bill 591 amends the Transportation Code to designate a portion of Interstate Highway 10 in Kendall County as the Trooper Kurt David Knapp Memorial Highway.

**House Bill 1409**  
**Effective:** 9-1-11

**House Author:** Flynn  
**Senate Sponsor:** Deuell

House Bill 1409 amends the Transportation Code to designate State Highway 243 in Van Zandt County, between State Highway 198 and State Highway 64, as the Veterans Memorial Parkway.

## Transportation

**House Bill 1499**  
**Effective:** 9-1-11

**House Author:** Larson et al.  
**Senate Sponsor:** Wentworth

House Bill 1499 amends the Government Code to establish the Scenic Loop Road—Boerne Stage Road—Toutant Beauregard Road Historic Corridor in Bexar County.

**House Bill 1866**  
**Effective:** 9-1-11

**House Author:** Gonzalez  
**Senate Sponsor:** Rodriguez

House Bill 1866 amends the Government Code to require the Texas Historical Commission, in cooperation with the Texas Department of Transportation, to designate, interpret, and market State Highway 20 as a Texas historic highway.

**House Bill 3208**  
**Effective:** 9-1-11

**House Author:** Burkett  
**Senate Sponsor:** Deuell

House Bill 3208 amends the Transportation Code to designate U.S. Highway 80 in the town of Sunnyvale as a Blue Star Memorial Highway.

**House Bill 3421**  
**Effective:** 9-1-11

**House Author:** Miller, Doug  
**Senate Sponsor:** Wentworth

House Bill 3421 amends the Government Code to require the Texas Historical Commission to cooperate with the Texas Department of Transportation in designating the El Camino Real de los Tejas National Historic Trail as a Texas historic highway.

**House Bill 3837**  
**Effective:** 6-17-11

**House Author:** Isaac  
**Senate Sponsor:** Hegar

House Bill 3837 amends the Transportation Code to designate the portion of U.S. Highway 183 from State Highway 71 to the southern municipal boundary of Lockhart as the Cpl. Jason K. LaFleur Memorial Highway.

**House Bill 3841**  
**Effective:** 6-17-11

**House Author:** Martinez  
**Senate Sponsor:** Lucio

House Bill 3841 amends the Transportation Code to designate the portion of Farm-to-Market Road 907 between U.S. Highway 281 and Owassa Road in Hidalgo County as Rudy Villarreal Road.

**Senate Bill 58**  
**Effective:** 9-1-11

**Senate Author:** Zaffirini et al.  
**House Sponsor:** Raymond et al.

Senate Bill 58 amends the Transportation Code to designate segments of State Highway 359, State Highway 16, and State Highway 285 as the Veterans of the Korean War Memorial Highway.

**Senate Bill 743**  
**Effective:** 9-1-11

**Senate Author:** Hegar et al.  
**House Sponsor:** Kleinschmidt

Senate Bill 743 amends the Transportation Code to designate the portion of State Highway 71 between the eastern municipal boundary of Bastrop and its intersection with County Road 329 as the 95th Division Memorial Highway.

**Senate Bill 1100****Effective:** 9-1-11**Senate Author:** Shapiro et al.**House Sponsor:** Harper-Brown

Senate Bill 1100 amends the Transportation Code to designate the interchange in Irving between certain highways and a specified rapid transit line as the Irving Diamond Interchange.

**Senate Bill 1248****Effective:** 6-17-11**Senate Author:** Lucio et al.**House Sponsor:** Lucio III

Senate Bill 1248 amends the Transportation Code to designate the portion of State Highway 499 from U.S. Highway 77 to County Road 106 as the Colonel Bill Card Boulevard.

**Senate Bill 1311****Effective:** 6-17-11**Senate Author:** Lucio et al.**House Sponsor:** Lozano et al.

Previous law designated the part of Interstate Highway 35 located in Texas as the Texas portion of the national Purple Heart Trail. Senate Bill 1311 amends the Transportation Code to designate that part of Interstate Highway 35 and certain other highways as the Texas portion of the Purple Heart Trail.

**Senate Bill 1831****Effective:** 9-1-11**Senate Author:** Wentworth et al.**House Sponsor:** Miller, Doug

Senate Bill 1831 amends the Government Code to require the Texas Historical Commission to cooperate with the Texas Department of Transportation in designating the El Camino Real de los Tejas National Historic Trail as a Texas historic highway.

**Senate Bill 1925****Effective:** 6-17-11**Senate Author:** Eltife**House Sponsor:** Cain

Senate Bill 1925 amends the Transportation Code to designate the portion of U.S. Highway 271 from Loop 286 north to the Texas-Oklahoma border as the Sergeant Jay M. Hoskins Memorial Highway.

**The summaries for the following bills are in the listed chapters:**

House Bill 242 - Law Enforcement  
 House Bill 559 - Military Forces and Veterans  
 House Bill 993 - Emergency Response  
 House Bill 1010 - Law Enforcement  
 House Bill 1148 - Military Forces and Veterans  
 House Bill 1301 - Parks and Wildlife  
 House Bill 1305 - Special Districts  
 House Bill 1514 - Military Forces and Veterans  
 House Bill 1906 - Environment  
 House Bill 2396 - Special Districts  
 House Bill 2678 - Public Education  
 House Bill 2928 - Military Forces and Veterans  
 House Bill 3030 - Special Districts  
 House Bill 3422 - Law Enforcement  
 House Bill 3580 - Military Forces and Veterans  
 Senate Bill 267 - Taxes and Tax Administration  
 Senate Bill 493 - Environment  
 Senate Bill 1635 - Military Forces and Veterans  
 Senate Bill 1787 - Law Enforcement





## Utilities

This chapter covers legislation relating to electric, natural gas, and telecommunications utilities and cable and video service providers, except for legislation relating to energy efficiency and conservation and the use of coal and biomass in power plants, which is in the **Energy Resources** chapter. Legislation relating to natural gas production, gathering, and pipeline transmission is also in the **Energy Resources** chapter, and legislation relating to water and sewer utilities is in the **Water** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

**House Bill 1753****Effective:** 9-1-11**House Author:** Gallego et al.**Senate Sponsor:** Uresti

House Bill 1753 amends the Utilities Code to increase from \$100,000 to \$10 million the threshold amount of consideration for the sale, acquisition, or lease of a plant as an operating unit or system above which a public utility is required to report the transaction to the Public Utility Commission of Texas.

**House Bill 2207****Effective:** 6-17-11**House Author:** Oliveira**Senate Sponsor:** Lucio

Previous law established that the first lien against the revenue of an electric or gas utility system owned by a municipality with a population of more than one million that secures the payment of public securities issued or obligations incurred for municipal utilities, parks, or swimming pools applies to funding for a bill payment assistance program for utility system customers who have been threatened with disconnection from service for nonpayment of bills and who have been determined by the municipality to be low-income customers. House Bill 2207 amends the Government Code to instead apply that lien against the revenue of an electric, water, sewer, solid waste disposal, drainage, or natural gas utility system owned by a municipality with a population of more than one million but less than two million.

Current law makes provisions relating to the management of certain encumbered municipal water systems applicable to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system, by ordinance elects to have the management and control of two or more such utility systems governed by those provisions, and meets certain other requirements. The bill makes those provisions applicable to such a municipality that makes the election by charter. The bill authorizes a municipality by ordinance to grant a board of trustees to which it has transferred management and control of two or more of its water, wastewater, storm water, or drainage utility systems authority to set rates and related terms for the systems.

**Senate Bill 312****Effective:** 4-21-11**Senate Author:** Seliger et al.**House Sponsor:** Keffer

Senate Bill 312 amends the Utilities Code and the Natural Resources Code to establish that an electric cooperative or its subsidiary that sells electricity at wholesale and provides certain gas storage services for hire is not a gas utility and is exempt from regulation as a gas utility. The bill exempts an underground storage facility owned or operated by such an electric cooperative from provisions of law relating to the regulation of common carriers, public utilities, and common purchasers and any common law requirements or limitations applicable to a common carrier.

**Senate Bill 365**  
**Effective:** 9-1-11

**Senate Author:** Ogden  
**House Sponsor:** Strama

Senate Bill 365 amends the Utilities Code to authorize a person who owns or operates a distributed natural gas generation facility, as it is defined by the bill, to sell electric power generated by the facility and redefines “power generation company” to include a person who owns or operates a distributed natural gas generation facility. The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at an agreed upon value, basing the value wholly or partly on the clearing price of energy at the time of day and at the location at which the electric power is made available to the electric grid. The bill requires the electric utility or cooperative, at the request of the owner or operator of the facility, to allow the transmission and distribution facilities to be used to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with Public Utility Commission of Texas rules or a tariff approved by the Federal Energy Regulatory Commission. The bill sets out provisions relating to cost recovery under specified circumstances.

**Senate Bill 403**  
**Effective:** 5-28-11

**Senate Author:** Eltife  
**House Sponsor:** Murphy

Senate Bill 403 amends the Utilities Code to require a regulatory authority, in establishing a gas utility’s rates, to allow recovery of the gas utility’s costs of pensions and other postemployment benefits as determined by specified criteria. The bill sets out requirements relating to establishing separate reserve accounts for pensions and other postemployment benefits, and requires a regulatory authority to apply any surplus or shortage, amortized over a reasonable time, to the gas utility’s rate base.

**Senate Bill 1087**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Hilderbran

Senate Bill 1087 amends provisions of the Utilities Code relating to state-issued certificates of franchise authority to provide cable service and video service. Current law provides that a cable service provider or a video service provider that currently has or had previously received a franchise to provide the service to a municipality is not eligible to seek a state-issued certificate of franchise authority. Expired law allowed certain cable and video service providers to terminate a municipal franchise and seek a state-issued certificate of franchise. Among other provisions, the bill sets out updated procedures authorizing certain providers in municipalities with a population of less than 215,000 to elect to terminate all unexpired franchises and seek a state-issued certificate of franchise authority for each area served under a terminated franchise by providing written notice to the Public Utility Commission of Texas and each affected municipality before January 1, 2012. A cable or video service provider in a municipality with a population of at least 215,000 may terminate a franchise in the manner described above under specified conditions. The bill revises provisions relating to franchise fees and in-kind contributions to a municipality and provisions governing public, educational, and governmental access channels.

**Senate Bill 1217**  
**Effective:** 9-1-11

**Senate Author:** Estes  
**House Sponsor:** Hilderbran

Senate Bill 1217 amends provisions of the Utilities Code excepting an excavator from certain provisions of the Underground Facility Damage Prevention and Safety Act in the case of an emergency. The bill prohibits an excavator from misrepresenting a fact or circumstance used in the determination of an emergency excavation, creates criminal and civil offenses for a person who violates this provision, and sets out provisions relating to the penalties for these offenses.

**Senate Bill 1230****Effective:** 5-9-11**Senate Author:** Estes**House Sponsor:** Crownover

Senate Bill 1230 amends the Local Government Code to authorize a home-rule municipality with a population of more than 100,000 that owns and operates an electric utility that is a member of a municipal power agency and is located in a county adjacent to a county with a population of more than two million to buy, own, construct, maintain, and operate a combined heating and power system or plant and related infrastructure. The bill authorizes the governing body of such a municipality to designate a combined heating and power economic development district in a territory that meets certain specifications and establishes provisions relating to the sale of energy commodities and the assessing of fees.

**Electric Utilities****House Bill 971****Effective:** 6-17-11**House Author:** King, Phil et al.**Senate Sponsor:** Fraser

House Bill 971 amends the Utilities Code to prohibit the Public Utility Commission of Texas (PUC) from requiring an electric utility or other person that wants to obtain or amend a certificate of convenience and necessity to designate a preferred route for a proposed transmission line facility. The bill extends the power of eminent domain, for certain transmission facilities, to include all public land, except land owned by the state, on which the PUC has approved construction of the transmission line, without limiting a municipality's rights or an electric utility's obligations to a municipality, or preventing a public entity from expressing a route preference in a proceeding on an application for a certificate of convenience and necessity. The bill requires the PUC, by rule, to establish criteria for granting a certificate of convenience and necessity for certain transmission projects.

**House Bill 1064****Effective:** 5-28-11**House Author:** Pitts et al.**Senate Sponsor:** Eltife et al.

House Bill 1064 amends the Utilities Code to require the Public Utility Commission of Texas (PUC), by rule, to require a transmission and distribution utility to waive the application of demand ratchet provisions for each nonresidential secondary service customer that has a maximum load factor equal to or below a factor set by PUC rule and to take certain related actions. The bill requires the PUC, before June 1, 2012, to adopt rules as necessary to implement the bill's provisions.

**House Bill 2133****Effective:** 9-1-11**House Author:** Solomons**Senate Sponsor:** Fraser

House Bill 2133 amends the Utilities Code to require the Public Utility Commission of Texas (PUC), in addition to assessing a penalty for a violation of certain provisions governing the electric power industry, to order disgorgement of all excess revenue resulting from the violation. The bill authorizes the PUC, in addition to assessing an administrative penalty, to order disgorgement of all excess revenue resulting from any other violation of the statutes, rules, or protocols relating to wholesale electric markets. The bill authorizes the PUC and a person to develop and enter into a voluntary mitigation plan relating to the violation and provides that adherence to the plan constitutes an absolute defense against an alleged violation with respect to activities covered by the plan. The bill requires any excess revenue ordered disgorged for a violation of the statutes, rules, or protocols relating to wholesale electric markets to be returned

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to the affected wholesale electric market participants to be used to reduce costs or fees incurred by retail customers.

**Senate Bill 855**  
**Effective:** 6-17-11

**Senate Author:** Duncan  
**House Sponsor:** Hilderbran

The Public Utility Commission of Texas (PUC) is required to notify interested parties when an electric utility or other person files an application for a certificate of convenience and necessity to install, operate, or extend service. Senate Bill 855 amends the Utilities Code to authorize the Office of Public Utility Counsel to advise those interested parties on procedural matters related to proceedings before the PUC on the application.

**Senate Bill 943**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Anchia

Senate Bill 943 amends the Utilities Code to provide, among other provisions, that electric energy storage equipment or facilities that are intended to be used to sell energy or ancillary services at wholesale are generation assets and to redefine “power generation company.” The bill requires the owner or operator of the equipment or facilities to register as a power generation company and entitles the owner or operator to interconnect the equipment or facilities, obtain transmission service for the equipment or facilities, and use the equipment or facilities to sell electricity or ancillary services at wholesale in a manner consistent with the Public Utility Regulatory Act and certain Public Utility Commission of Texas rules.

**Senate Bill 981**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Anchia et al.

Senate Bill 981 amends the Utilities Code to redefine “distributed renewable generation owner” to include a retail electric customer on whose side of the meter distributed renewable generation is installed and operated, regardless of whether the customer takes ownership of the distributed renewable generation, and to include a person who by contract is assigned ownership rights to energy produced from distributed renewable generation located at the premises of the customer on the customer’s side of the meter. The bill specifies that neither a retail electric customer that uses distributed renewable generation nor the owner of the distributed renewable generation that the retail electric customer uses is an electric utility, power generation company, or retail electric provider under the Public Utility Regulatory Act and that neither is required to register or be certified with the Public Utility Commission of Texas under specified circumstances.

**Senate Bill 1153**  
**Effective:** 5-20-11

**Senate Author:** Williams  
**House Sponsor:** Ritter

Senate Bill 1153 amends the Utilities Code to authorize the Public Utility Commission of Texas (PUC) to retain any consultant, accountant, auditor, engineer, or attorney the PUC considers necessary to represent the PUC in specified proceedings before the Federal Energy Regulatory Commission, or before a court reviewing the federal commission’s proceedings, relating to an electric utility. The bill requires the electric utility involved in a proceeding to pay the reasonable costs of the services of a person retained by the PUC, not to exceed \$1.5 million in a 12-month period, and establishes other requirements relating to retaining a person under these provisions.

**Senate Bill 1693**  
**Effective:** 5-28-11

**Senate Author:** Carona  
**House Sponsor:** Thompson

Senate Bill 1693 amends the Utilities Code to set out temporary provisions, set to expire January 1, 2017, relating to periodic rate adjustments by electric utilities. The bill authorizes the Public Utility Commission of Texas (PUC) or a regulatory authority to approve a tariff or rate schedule in which a nonfuel rate may be periodically adjusted, based on changes in certain parts of the utility's invested capital, and establishes requirements and restrictions relating to such periodic rate adjustments. The bill requires the PUC to adopt rules necessary to implement the bill's provisions not later than the 120th day after the bill's effective date and to study and report on any adjustments established under the bill's provisions.

**Senate Bill 1910**  
**Effective:** 6-17-11

**Senate Author:** Rodriguez et al.  
**House Sponsor:** Margo et al.

Senate Bill 1910 amends the Utilities Code to set out regulatory provisions relating to the delay of the transition to competition in the Western Electricity Coordinating Council service area and to net metering and energy efficiency goals and programs for utilities in that area. The provisions are applicable only to an investor-owned electric utility that is operating solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of Texas that were included in the Western Electricity Coordinating Council on January 1, 2011; was not affiliated with ERCOT on January 1, 2011; and is not subject to provisions of law applicable to certain other non-ERCOT utilities.

## Telecommunications

**House Bill 2295**  
**Effective:** 6-17-11

**House Author:** Frullo  
**Senate Sponsor:** Hegar

Current law requires the Public Utility Commission of Texas (PUC) to adopt and enforce rules requiring local exchange companies to establish a universal service fund to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas. House Bill 2295 amends the Utilities Code to require the PUC to provide this assistance under the Texas High Cost Universal Service Plan and the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

**House Bill 2603**  
**Effective:** See below

**House Author:** Smithee  
**Senate Sponsor:** Hegar

Previous law authorized the Public Utility Commission of Texas to revise the monthly per line support amounts to be made available from the Texas High Cost Universal Service Plan and from the Small and Rural Incumbent Local Exchange Company Universal Service Plan at any time after September 1, 2007. House Bill 2603 updates and amends the Utilities Code to authorize the Public Utility Commission of Texas to revise the monthly support amounts to be made available from the Small and Rural Incumbent Local Exchange Company Universal Service Plan by revising the monthly per line support amounts, after notice and opportunity for hearing. The bill sets out procedural requirements relating to this provision. This provision expires September 1, 2013, and the previous law, as described above, is restored on that date. Except as otherwise provided, the bill takes effect September 1, 2011.



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### **House Bill 2680**

**Effective:** 9-1-11

**House Author:** King, Tracy O.

**Senate Sponsor:** Hegar

Previous law defined “minor change,” in regard to telecommunications utility rates for small local exchange companies and cooperatives, as a change, including the restructuring of rates of existing services, that decreases the rates or revenues of an incumbent local exchange company or, together with any other rate or proposed or approved tariff changes in the 12 months preceding the effective date of the proposed change, increases the company’s total regulated intrastate gross annual revenues by not more than five percent. House Bill 2680 amends the Utilities Code to redefine “minor change” to remove proposed tariff changes from among the changes described above that are used to calculate the increase in the company’s total regulated intrastate gross annual revenues. Previous law specified that a minor change does not include a change that, together with any other change to the basic local access line rate that took effect during the 12 months preceding the effective date of the proposed change, results in an increase of more than 10 percent. The bill increases the maximum total increase to 50 percent.

Current law authorizes an incumbent local exchange company to offer certain services or make minor changes in rates or tariffs under certain conditions. The bill adds more service options. One of the conditions for offering services or making minor rate or tariff changes required the incumbent local exchange company to file a statement of intent with the Public Utility Commission of Texas (PUC) not later than the 91st day before the effective date of the proposed change. The bill requires the company to file a notice instead of a statement of intent and specifies that it must be filed not later than the 10th day before the effective date of the proposed change. Previous law required the company to provide notice of a proposed rate change to affected customers not later than the 61st day before the effective date of the proposed change. The bill changes that requirement to not later than the 10th day before the effective date of the proposed change.

### **Senate Bill 773**

**Effective:** 9-1-11

**Senate Author:** Zaffirini et al.

**House Sponsor:** Gallego et al.

Current law requires an incumbent local exchange company that elects to be subject to incentive regulation and to make the corresponding infrastructure commitment to provide, on customer request, private network services to specified entities. Senate Bill 773 amends the Utilities Code to add a health center, defined by the bill as a federally qualified health center service delivery site, to the list of entities that may request such services. Current law prohibits an electing company from setting tariff rates or rates for certain services higher than a specified percentage of the service’s statewide average long run incremental cost, or the service’s long run incremental cost, as appropriate, including installation. The bill increases from 105 percent to 110 percent the maximum allowable percentage of cost under those provisions. The bill, under provisions governing incentive regulation and the corresponding infrastructure plan, extends from January 1, 2012, to January 1, 2016, the date before which an electing company’s rates for private network services may not be increased. The bill also extends from January 1, 2012, to January 1, 2016, the date through which an electing company must comply with provisions relating to an infrastructure commitment to certain entities.

### **Senate Bill 980**

**Effective:** See below

**Senate Author:** Carona et al.

**House Sponsor:** Hancock

Senate Bill 980 amends provisions of the Utilities Code relating to telecommunications services and markets. The bill prohibits the Public Utility Commission of Texas (PUC) from requiring a telecommunications utility that is not a public utility, including a deregulated or transitioning company, to comply with a requirement or standard that is more burdensome than

a requirement or standard the PUC imposes on a public utility. The bill prohibits a department, agency, or political subdivision of Texas from regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services, as those terms are defined in the bill, and sets out provisions that are not subject to this prohibition.

Senate Bill 980 sets out tariff requirements relating to a telecommunications provider not subject to rate of return regulation and makes provisions governing a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority applicable to a transitioning company under provisions relating to the deregulation of certain incumbent local exchange company markets. The bill prohibits the PUC, on or after September 1, 2011, from requiring a telecommunications provider to provide mandatory or optional extended area service to additional metropolitan areas or calling areas or ordering an expansion of a toll-free local calling area.

Senate Bill 980 requires the PUC to adopt rules that include procedures to ensure reasonable transparency and accountability in the administration of the universal service fund and sets requirements for support from the universal service fund that is available to deregulated markets. The bill changes the procedures for determining whether a market should be deregulated. Among other provisions, the bill requires a market that is deregulated as of September 1, 2011, to remain deregulated and prohibits the PUC from reregulating a market or company that has been deregulated. An incumbent local exchange company may petition the PUC to deregulate a market of the company that the PUC previously determined should remain regulated. Only the incumbent local exchange company is authorized to initiate a proceeding to deregulate one of the company's markets. The bill makes changes to the conditions under which the PUC determines whether a market should remain regulated.

The bill revises provisions applicable to deregulated and transitioning companies and sets out provisions exempting a transitioning company from certain rate and price requirements. The bill requires the PUC to review and evaluate, through the initiation of one or more proceedings, whether the universal service fund accomplishes the fund's purposes and requires the PUC to complete each proceeding required under those provisions not later than November 1, 2012. The PUC must provide the legislature with a copy of its findings and any orders issued. The PUC is prohibited from initiating a proceeding to review the Texas High Cost Universal Service Plan before January 2, 2012. The bill makes provisions relating to the support available to deregulated markets, the inapplicability of certain rate and price requirements to a transitioning incumbent local exchange company, and a complaint relating to compliance filed by an affected person effective January 2, 2012. All other provisions take effect September 1, 2011.

**Senate Bill 983**  
**Effective:** 9-1-11

**Senate Author:** Carona  
**House Sponsor:** Harless

Senate Bill 983 repeals provisions of the Utilities Code requiring Public Utility Commission of Texas approval of a customer-specific communications contract to provide certain services.

**The summaries for the following bills are in the listed chapters:**

House Bill 1449 - State Government

House Bill 2289 - Energy Resources

Senate Bill 924 - Energy Resources

Senate Bill 937 - Emergency Response

Senate Bill 1125 - Energy Resources

Senate Bill 1150 - Energy Resources

Senate Bill 1434 - Energy Resources

Senate Bill 1613 - Open Government and Privacy

## Water

This chapter covers legislation relating to water planning, development, conservation, finance, and use and water and sewer service. Legislation on water quality protection is in the **Environment** chapter, and legislation relating to water districts is in the **Special Districts** chapter. Related legislation that is summarized in other chapters is listed at the end of this chapter.

### General

#### **House Bill 805**

**Effective:** 6-17-11

**House Author:** Callegari

**Senate Sponsor:** Hegar

House Bill 805 amends the Water Code to require water service providers that furnish water service to more than one customer in a county with a population of 3.3 million or more or in an adjacent county with a population of 550,000 or more, rather than 400,000 or more, to ensure the emergency operation of their water systems during an extended power outage.

#### **House Bill 1901**

**Effective:** 5-28-11

**House Author:** Keffer

**Senate Sponsor:** Birdwell

House Bill 1901 amends the Water Code to make provisions requiring approval by the Texas Commission on Environmental Quality before a water district can issue bonds inapplicable to bonds issued by a public utility agency created under Local Government Code provisions relating to public utility agencies providing water or sewer service that has as a participating public entity a district that on September 1, 2003, was a municipal utility district that included territory in only two counties, had outstanding long-term indebtedness that was rated BBB or better by a nationally recognized rating agency for municipal securities, and had at least 5,000 active water connections.

#### **House Bill 3090**

**Effective:** 9-1-11

**House Author:** Creighton

**Senate Sponsor:** Nichols

Previous law required a retail public utility providing potable water to perform and file with the Texas Water Development Board (TWDB) every five years a water audit computing the utility's most recent annual system water loss. House Bill 3090 amends the Water Code to require a retail public utility providing potable water that receives financial assistance from the TWDB to perform and file with the TWDB an annual water audit computing the utility's system water loss during the preceding year, while retaining the previous audit requirement for a retail public utility providing potable water that does not receive financial assistance from the TWDB.

Current law requires the TWDB to develop appropriate methodologies and submission dates for a required water audit for categories of retail public utilities based on the size of the population served by the utility. The bill changes the two smallest categories to include different population ranges.

#### **Senate Bill 332**

**Effective:** 9-1-11

**Senate Author:** Fraser et al.

**House Sponsor:** Ritter

Previous law recognized the ownership and rights of the owners of land and their lessees and assigns in groundwater, and prohibited construing a provision of the Water Code as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by a groundwater conservation district. Previous law prohibited a rule promulgated by a district from discriminating between owners of land that

is irrigated for production and owners of land or their lessees and assigns whose land that was irrigated for production is enrolled in or is participating in a federal conservation program.

Senate Bill 332 amends the Water Code to clarify these provisions by establishing that the legislature recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property. The bill provides that groundwater ownership and rights entitle the landowner, including a landowner's lessees, 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 not to the right to capture a specific amount of groundwater below the surface of that landowner's land. The bill provides that groundwater ownership and rights do not affect the existence of common law defenses or other defenses to liability under the rule of capture. The bill sets out language relating to the effect of these provisions.

The bill requires a groundwater conservation district, in adopting a rule, to consider, among other things, groundwater ownership and rights, the public interest in groundwater conservation, and the goals of the district's management plan.

**Senate Bill 569**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** Taylor, Larry

Senate Bill 569 amends the Water Code to require a water district that provides nonsubmetered master metered utility service to a recreational vehicle park 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 such service from the district.

**Senate Bill 573**  
**Effective:** 9-1-11

**Senate Author:** Nichols et al.  
**House Sponsor:** Creighton et al.

Senate Bill 573 amends Water Code provisions relating to certificates of public convenience and necessity. Current law prohibits the Texas Commission on Environmental Quality (TCEQ) from granting a certificate of public convenience and necessity to a retail public utility for a service area within the boundaries or extraterritorial jurisdiction of a municipality with a population of 500,000 or more without the consent of the municipality. The bill authorizes TCEQ, if such a municipality that is located in a county with certain characteristics has not consented before the 180th day after receipt of a formal request, to grant the certificate without the consent of the municipality under certain circumstances.

Current law authorizes a landowner who owns a tract of land that is at least 25 acres and within the proposed service area of a new or amended certificate of public convenience and necessity to elect to exclude some or all of the landowner's property from the proposed service area. The bill prohibits an applicant for a certificate that has land removed from its proposed certificated service area because of such an election from being required to provide service to the removed land for any reason. The bill prohibits TCEQ from extending the certificate of a municipality located in a county with certain characteristics beyond its extraterritorial jurisdiction if an owner of land that is located outside the extraterritorial jurisdiction makes such an election.

Current law authorizes the owner of a tract of land that is at least 50 acres and that is not in a platted subdivision actually receiving water or sewer service, as an alternative to decertification, to petition TCEQ for expedited release of the area from a certificate so that the area may receive service from another retail public utility. The bill establishes that the fact that a certificate holder is a borrower under a federal loan program is not a bar to a request for the release of the petitioner's land and the receipt of services from an alternative provider. The bill clarifies that the petitioner is required to mail a copy of the petition to the certificate holder on the day the petitioner submits the petition to TCEQ, adds to the conditions that the petitioner is required to



meet, and shortens the period in which TCEQ is required to grant an administratively complete petition if the petitioner satisfied the required elements. The bill establishes that if a certificate 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 certificate holder but only that the proposed alternative provider is capable of providing the requested service; the bill exempts certain counties from this provision.

The bill 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 the expedited release previously mentioned, to petition for expedited release of the area from a certificate and entitles the landowner to that release if the landowner's property is located in a county with certain characteristics. The bill requires TCEQ to grant such 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 certificate holder is a borrower under a federal loan program, and authorizes TCEQ to require an award of compensation by the petitioner to a decertified retail public utility that is the subject of a petition.

The bill requires a public utility to include with a statement of intent to change rates provided to each landowner or ratepayer a notice of a proceeding related to certification or decertification, the reason or reasons for the proposed rate change, and any bill payment assistance program available to low-income ratepayers.

The bill prohibits a certificate holder that has land removed from its certificated service area in accordance with provisions relating to the revocation or amendment of a certificate from being required, after the land is removed, to provide service to the removed land for any reason.

**Senate Bill 609**

**Effective:** 6-17-11

**Senate Author:** Rodriguez

**House Sponsor:** Gonzalez

Senate Bill 609 amends the Local Government Code to exempt from drainage charges and all ordinances, resolutions, and rules adopted under the Municipal Drainage Utility Systems Act property owned by a municipal housing authority of a municipality of more than 500,000 population located within 50 miles of an international border.

**Senate Bill 660**

**Effective:** 9-1-11

**Senate Author:** Hinojosa et al.

**House Sponsor:** Ritter

Senate Bill 660 amends the Water Code to set the Texas Water Development Board (TWDB) to be reviewed under the Texas Sunset Act during the period in which state agencies abolished in 2023 and every 12th year thereafter are reviewed.

In addition to including the Sunset Advisory Commission's across-the-board recommendations, the bill, in the event of a default relating to a financial assistance program and on request by the TWDB, requires the attorney general to seek a writ of mandamus to compel a financial assistance program recipient or the recipient's officers, agents, and employees to cure the default, and to seek any other legal or equitable remedy the TWDB and the attorney general consider necessary and appropriate. In addition to such remedies, the attorney general, at the request of the TWDB, is required to bring suit in a district court in Travis County for the appointment of a receiver to collect the assets and carry on the business of such a recipient under certain conditions.

The bill removes provisions establishing the Texas Geographic Information Council, requires the TWDB's executive administrator to designate the director of the Texas Natural Resources Information System (TNRIS) to serve as the state geographic information officer, and sets forth the duties of that officer. The bill requires the state water plan to include an evaluation of the

state's progress in meeting future water needs and an analysis of the number of projects included in the preceding state water plan that received financial assistance from the TWDB.

The bill requires the groundwater conservation districts located in each management area located in a regional water planning area to appoint one representative to serve on the regional water planning group. The bill requires that a regional water plan that must be submitted by each regional water planning group to the TWDB be consistent with applicable desired future conditions.

The bill requires the TWDB and Texas Commission on Environmental Quality (TCEQ), in consultation with the Water Conservation Advisory Council, 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, and sets out minimum requirements for the methodology and guidance. The bill requires the TWDB or TCEQ to use the methodology and guidance in evaluating certain water conservation plans, programs, surveys, and reports, and requires the TWDB and TCEQ, respectively, to adopt certain rules requiring the methodology and guidance to be used in certain plans and reports. The bill requires the TWDB, in consultation with TCEQ and the council, to develop a data collection and reporting program for municipalities and water utilities with more than 3,300 connections. The bill requires TCEQ and the TWDB to adopt rules and standards as necessary to implement provisions relating to water conservation.

The bill establishes 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 the constitutional limit on such debt until the legislature makes an appropriation from the fund to the TWDB to pay the debt service on the bonds, and sets out related provisions.

The bill requires the board of directors of a groundwater conservation district to post certain notice at least 10 days before a public hearing on any proposed, relevant desired future conditions or a meeting at which the district will adopt a desired future condition.

The bill amends provisions relating to joint planning in a management area. The bill requires representatives of the groundwater conservation districts in a management area to meet at least annually to, among other purposes, review proposals to adopt new or amend existing desired future conditions. The bill requires districts every five years to propose for adoption, rather than establish, desired future conditions for the relevant aquifers within the management area and to make several specified considerations before voting on the conditions, and requires the proposed conditions to provide a certain balance between groundwater production and conservation.

The bill requires proposed desired future conditions to be approved by a two-thirds vote of all the district representatives and requires each district to hold a public hearing on any relevant proposed conditions and to compile a certain summary that includes relevant comments received and suggested revisions. District representatives are required to reconvene to review reports, consider suggested revisions, adopt as a resolution by a two-thirds vote the desired future conditions for the management area, and produce an explanatory report. The bill requires a district, after it receives the resolution and explanatory report, to adopt the applicable conditions. The bill establishes provisions relating to the notice of a joint meeting of districts.

The bill requires TCEQ and the TWDB, on request, to make technical staff available to assist with the development of desired future conditions during the joint planning process and authorizes district representatives to appoint and convene nonvoting advisory subcommittees who represent certain interests to assist in the development of the conditions.

The bill requires the TWDB to require the districts in a management area to submit to the TWDB's executive administrator before a certain deadline, among other things, the adopted desired future conditions, and requires each district in the management area to ensure that its management plan contains goals and objectives consistent with achieving the adopted conditions.

The bill authorizes an affected person, defined by the bill as one of several entities, to file a petition with TCEQ requesting an inquiry regarding a groundwater conservation district for any of a number of specified reasons. Current law authorizes TCEQ, after receiving a review panel's report regarding a petition, to take any action against a district it considers necessary if TCEQ makes one of several specified findings; the bill adds to the list of those findings.

**Senate Bill 1132**  
**Effective:** 6-17-11

**Senate Author:** Hegar  
**House Sponsor:** Thompson

Previous law required the construction of the Allens Creek Reservoir to commence not later than September 1, 2018. Senate Bill 1132 amends the law to require that construction commence on or before September 1, 2025, and be completed not later than the fifth anniversary of the date construction commences.

**Senate Bill 1596**  
**Effective:** 6-17-11

**Senate Author:** Wentworth  
**House Sponsor:** Isaac

Previous law authorized the public entities that create a public utility agency for the provision of water or sewer service by concurrent ordinances to re-create the agency by adding or deleting a public entity. Senate Bill 1596 amends the Local Government Code to remove the authorization to re-create an agency as such and instead authorizes the public entities that participate in an agency by concurrent ordinances to add a public entity to, or delete a public entity from, participation in the agency.

## **Water Planning, Development, and Conservation**

**House Bill 1732**  
**Effective:** 9-1-11

**House Author:** Ritter  
**Senate Sponsor:** Hinojosa

House Bill 1732 amends the Water Code to prohibit the Texas Water Development Board (TWDB) from providing financial assistance to an applicant for certain water planning or development projects who has failed to satisfactorily provide requested information relevant to the project, including a water infrastructure financing survey. The bill establishes that water financial assistance bonds that have been authorized but not issued are not considered to be debt payable from general revenue for purposes of the constitutional debt limit until the legislature appropriates funds to pay the debt service on the bonds. The bill sets out provisions relating to approval by the Bond Review Board for the issuance of such bonds, including certification by the executive administrator of the TWDB of debt service on the bonds that is reasonably expected to be paid from general revenue or paid from other revenue sources. The bill establishes certain circumstances under which bonds issued by TWDB cease to be considered payable from general revenue.

**House Bill 3372**  
**Effective:** 9-1-11

**House Author:** King, Tracy O. et al.  
**Senate Sponsor:** Jackson

House Bill 3372 amends the Health and Safety Code to require the Texas Commission on Environmental Quality 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; the bill sets forth rule criteria. The bill requires a person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes to be licensed as a master plumber or journeyman plumber and endorsed as a water supply protection specialist.

The bill requires a person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes to give written notice of that intention to the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connection. The bill 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 applicable sanitary standards for drinking water.

**House Bill 3391**  
**Effective:** 9-1-11

**House Author:** Miller, Doug  
**Senate Sponsor:** Seliger

House Bill 3391 amends the Water Code to include the promotion of rainwater harvesting for potable and nonpotable purposes at public and private facilities as a public policy of the state to provide for the conservation and development of the state's natural resources. The bill amends the Finance Code to authorize financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply. The bill amends the Government Code to require adopted State Energy Conservation Office procedural design standards to require that on-site reclaimed system technologies for potable indoor use and landscape watering be incorporated into the design and construction of each new state building with certain characteristics and to require such standards to require 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 certain other characteristics.

The bill amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system the structure must have appropriate cross-connection safeguards. TCEQ is required to develop certain 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. The bill requires a person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes to receive the consent of the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connection. The bill prohibits 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 municipality or the public water supply system is in compliance with applicable sanitary drinking water standards adopted by TCEQ.

The bill amends the Local Government Code to encourage each municipality and county to promote rainwater harvesting at residential, commercial, and industrial facilities through incentives; require the Texas Water Development Board to ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly; and require certain members, and encourage others, to periodically receive appropriate training regarding rainwater harvesting standards and their relation to permitting.

The bill prohibits a municipality or county from denying a building permit solely because the facility will implement rainwater harvesting but authorizes a municipality or county to require that a rainwater harvesting system comply with the minimum state standards established for such a system. The bill encourages each school district to implement rainwater harvesting at district facilities.

The bill amends the Property Code to include in the written notice a seller of residential real property comprising not more than one dwelling unit is required to give to the purchaser of the property language disclosing whether the seller is aware of any rainwater harvesting system connected to the property's public water supply that is able to be used for indoor potable purposes. The bill authorizes a property owners' association to regulate the installation of a rainwater harvesting system under certain conditions.

**Senate Bill 181**  
**Effective:** 6-17-11

**Senate Author:** Shapiro et al.  
**House Sponsor:** Laubenberg et al.

Current law requires each regional water planning group to submit to the Texas Water Development Board (TWDB) a regional water plan. Senate Bill 181 amends the Water Code to include in such a plan 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.

The bill requires the TWDB and the Texas Commission on Environmental Quality (TCEQ), in consultation with the Water Conservation Advisory Council, 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. The bill establishes minimum guidelines for the methodology and guidance. The TWDB or TCEQ, as appropriate, is required to use the methodology and guidance in evaluating certain water conservation plans, programs of water conservation, surveys, or other reports relating to water conservation submitted to the TWDB or TCEQ. The bill requires the TWDB, in consultation with TCEQ and the advisory council, to develop a data collection and reporting program for municipalities and water utilities with more than 3,300 connections. The bill requires the TWDB to submit to the legislature a biennial report that includes the most recent data relating to statewide water usage in the residential, industrial, agricultural, commercial, and institutional sectors and relating to the data collection and reporting program. The bill requires TCEQ and the TWDB, as appropriate, to adopt rules and standards as necessary to implement statutory provisions relating to water conservation, as amended by the bill, and establishes certain guidelines for rules adopted under such provisions.

**Senate Bill 313**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Price

Previous law required the executive director of the Texas Commission on Environmental Quality (TCEQ) and the executive administrator of the Texas Water Development Board to meet periodically to identify those areas of Texas that are experiencing or that are expected to experience within the immediately following 25-year period critical groundwater problems. Senate Bill 313 amends the Water Code to increase that period to a 50-year period. The bill authorizes TCEQ to adopt rules regarding the creation of a district over all or part of a priority groundwater management area that was designated as a critical area under Water Code provisions relating to groundwater studies as such provisions existed before September 1, 1997, or under other prior law. TCEQ may also adopt rules regarding the addition of all or part of the land in such a priority groundwater management area to an existing district.

Under previous law, if a TCEQ order designating a priority groundwater management area recommended that all or part of the management area be added to an existing district, the board of the district was required to vote on the addition of the applicable territory and, if approved, to call an election within that territory on the territory's inclusion in the district and, if the district had outstanding debts or taxes, the assumption by the territory of a proportional share of the district's debts or taxes. If the addition was not approved by the board or voters, TCEQ was



required to create one or more districts covering the priority groundwater management area. The bill removes the required voter approval for inclusion of such a management area in a district but provides that if the district has approved a property tax on the date of TCEQ's order and voters do not approve the assumption of a proportional share of the debts or taxes of the district, the board of the district is required to assess certain 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. If the assumption is not approved or the board votes not to accept the addition of the area, TCEQ is required within a year following such action to create one or more districts covering the management area or recommend that the area be added to another existing district.

Senate Bill 313 authorizes TCEQ to amend the territory in an order designating a priority groundwater management area or creating a district for such an area to adjust for areas that in the time between the issuance of the order designating the area and the issuance of the order creating the district have or have not been added to an existing district or created as a separate district. In making such a modification, TCEQ is authorized to recommend the creation of a new district in the area or that the area be added to a different district.

**Senate Bill 360**  
**Effective:** 9-1-11

**Senate Author:** Fraser  
**House Sponsor:** Creighton

Senate Bill 360 amends the Water Code to provide that the rural water assistance fund consists of money that is directly appropriated to the Texas Water Development Board for a purpose of the fund and to include in the fund money transferred from the water assistance fund; money from gifts, grants, or donations; and any other fees or sources of revenue that the legislature may dedicate for deposit to the rural water assistance fund.

The bill expands the authorized uses of the fund to include the provision of low-interest loans to rural political subdivisions to provide for water projects included in the state water plan or a regional water plan; development of groundwater sources and acquisition of 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 water or wastewater service supplied by other political subdivisions or financing the consolidation or regionalizing of neighboring political subdivisions, or both. The bill authorizes the fund to be used to provide certain types of loans.

The bill authorizes a rural political subdivision to enter into an agreement with another rural political subdivision to submit a joint application for financial assistance and authorizes the board to coordinate its review of a submitted application with a federal agency. The bill authorizes the board to make financial assistance available to an eligible nonprofit water supply or sewer service corporation by entering into a loan agreement with the applicant.

**Senate Bill 370**  
**Effective:** 6-17-11

**Senate Author:** Seliger  
**House Sponsor:** Ritter

Senate Bill 370 amends the Water Code to prohibit the Texas Water Development Board from providing financial assistance to an applicant for certain water planning projects who has failed to satisfactorily provide requested information relevant to the project, including a water infrastructure financing survey.

**Senate Bill 737**  
**Effective:** 9-1-11

**Senate Author:** Hegar  
**House Sponsor:** Price

Previous law required a groundwater conservation district to issue permits up to the point that the total volume of groundwater permitted equals the amount of water that may be permitted by a district for beneficial use in accordance with an aquifer's desired future condition. Senate Bill 737 amends the Water Code to require a district to issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition. The bill requires a district, in issuing permits, to manage total groundwater production on a long-term basis to achieve an applicable desired future condition and to consider certain factors relating to aquifer production.

**Senate Bill 1073**  
**Effective:** 9-1-11

**Senate Author:** Jackson  
**House Sponsor:** King, Tracy O.

Senate Bill 1073 amends the Health and Safety Code to require the Texas Commission on Environmental Quality 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; the bill sets forth rule criteria. The bill requires a person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes to be licensed as a master plumber or journeyman plumber and endorsed as a water supply protection specialist. The bill requires a person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes to give written notice of that intention to the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connection. The bill 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 applicable sanitary standards for drinking water.

**Senate Joint Resolution 4**  
**For Election:** 11-8-11

**Senate Author:** Hinojosa et al.  
**House Sponsor:** Ritter

Senate Joint Resolution 4 proposes an amendment to the state constitution to authorize the Texas Water Development Board (TWDB) to issue general obligation bonds for one or more accounts of the Texas Water Development Fund II in amounts such that the aggregate principal amount of such bonds that are outstanding at any time does not exceed \$6 billion. The resolution makes constitutional provisions relating to the fund applicable to these bonds, but makes the provision that prohibits the TWDB from issuing bonds in excess of the aggregate principal amount of previously authorized bonds inapplicable to bonds under the resolution's provisions. The resolution makes a limitation on the percentage of state participation in any single project imposed by constitutional provisions relating to the legislative department inapplicable to a project funded with the proceeds of bonds issued under the authority of the resolution's provisions or provisions relating to the fund.

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House Bill 2784	177	House Bill 3051	209
House Bill 2785	93	House Bill 3065	166
House Bill 2792	387	House Bill 3076	434
House Bill 2793	30	House Bill 3079	31
House Bill 2809	404	House Bill 3085	166
House Bill 2810	448	House Bill 3090	479
House Bill 2817	99	House Bill 3093	102
House Bill 2819	205	House Bill 3096	267
House Bill 2825	187	House Bill 3099	255
House Bill 2826	130	House Bill 3109	391
House Bill 2831	248	House Bill 3111	410
House Bill 2847	88	House Bill 3125	32
House Bill 2851	276	House Bill 3133	439
House Bill 2853	96	House Bill 3134	116
House Bill 2857	261	House Bill 3141	24
House Bill 2859	391	House Bill 3145	153
House Bill 2866	425	House Bill 3146	153
House Bill 2869	333	House Bill 3161	230
House Bill 2872	24	House Bill 3167	287
House Bill 2889	88	House Bill 3174	41
House Bill 2902	263	House Bill 3182	448
House Bill 2903	205	House Bill 3197	217
House Bill 2904	166	House Bill 3199	3
House Bill 2907	195	House Bill 3208	468
House Bill 2908	192	House Bill 3216	439
House Bill 2909	337	House Bill 3234	142
House Bill 2910	178	House Bill 3255	416
House Bill 2911	195	House Bill 3268	126
House Bill 2920	106	House Bill 3270	106

House Bill 3272	126	House Bill 3730	150
House Bill 3278	420	House Bill 3743	404
House Bill 3287	287	House Bill 3746	68
House Bill 3302	97	House Bill 3771	453
House Bill 3307	301	House Bill 3788	267
House Bill 3309	460	House Bill 3796	57
House Bill 3311	134	House Bill 3803	404
House Bill 3314	135	House Bill 3804	371
House Bill 3324	255	House Bill 3808	310
House Bill 3328	116	House Bill 3813	396
House Bill 3329	10	House Bill 3814	404
House Bill 3333	420	House Bill 3815	382
House Bill 3336	166	House Bill 3818	391
House Bill 3337	326	House Bill 3819	374
House Bill 3342	216	House Bill 3821	410
House Bill 3352	264	House Bill 3823	256
House Bill 3369	174	House Bill 3827	374
House Bill 3372	483	House Bill 3828	374
House Bill 3384	80	House Bill 3829	240
House Bill 3389	320	House Bill 3831	375
House Bill 3391	484	House Bill 3833	135
House Bill 3395	416	House Bill 3834	375
House Bill 3396	80	House Bill 3836	375
House Bill 3399	126	House Bill 3837	468
House Bill 3404	420	House Bill 3840	405
House Bill 3409	357	House Bill 3841	468
House Bill 3410	223	House Bill 3842	375
House Bill 3421	468	House Bill 3843	387
House Bill 3422	255	House Bill 3844	57
House Bill 3423	80	House Bill 3845	405
House Bill 3439	68	House Bill 3847	396
House Bill 3453	35	House Bill 3852	375
House Bill 3462	382	House Bill 3856	58
House Bill 3465	97	House Bill 3857	376
House Bill 3468	178	House Bill 3859	376
House Bill 3470	192	House Bill 3862	405
House Bill 3474	10	House Bill 3864	406
House Bill 3475	57	House Bill 3866	396
House Bill 3487	112	House Joint Resolution 63	430
House Bill 3506	338	House Joint Resolution 109	338
House Bill 3510	287	House Joint Resolution 130	180
House Bill 3531	135	Senate Bill 1 (1st C.S.)	14
House Bill 3547	209	Senate Bill 2 (1st C.S.)	19
House Bill 3570	288	Senate Bill 4 (1st C.S.)	107
House Bill 3573	24	Senate Bill 5	180
House Bill 3577	196	Senate Bill 6 (1st C.S.)	338
House Bill 3578	196	Senate Bill 7 (1st C.S.)	19
House Bill 3579	196	Senate Bill 8 (1st C.S.)	340
House Bill 3580	280	Senate Bill 14	100
House Bill 3597	374	Senate Bill 17	28
House Bill 3616	416	Senate Bill 18	320
House Bill 3647	14	Senate Bill 19	456
House Bill 3674	42	Senate Bill 20	122
House Bill 3691	49	Senate Bill 24	69
House Bill 3708	179	Senate Bill 27	354
House Bill 3722	309	Senate Bill 28	197
House Bill 3724	173	Senate Bill 29	358
House Bill 3726	420	Senate Bill 31	107
House Bill 3727	440	Senate Bill 32	183

Senate Bill 36	188	Senate Bill 227	161
Senate Bill 37	217	Senate Bill 229	174
Senate Bill 40	197	Senate Bill 233	376
Senate Bill 41	217	Senate Bill 234	376
Senate Bill 43	42	Senate Bill 244	256
Senate Bill 49	240	Senate Bill 246	387
Senate Bill 54	347	Senate Bill 247	421
Senate Bill 58	468	Senate Bill 248	4
Senate Bill 61	240	Senate Bill 249	25
Senate Bill 71	205	Senate Bill 250	75
Senate Bill 74	150	Senate Bill 256	154
Senate Bill 76	209	Senate Bill 257	462
Senate Bill 77	206	Senate Bill 258	417
Senate Bill 78	206	Senate Bill 260	210
Senate Bill 80	167	Senate Bill 263	161
Senate Bill 81	167	Senate Bill 264	247
Senate Bill 82	80	Senate Bill 265	210
Senate Bill 85	58	Senate Bill 266	326
Senate Bill 86	467	Senate Bill 267	431
Senate Bill 89	342	Senate Bill 271	397
Senate Bill 100	101	Senate Bill 279	143
Senate Bill 101	274	Senate Bill 283	58
Senate Bill 115	42	Senate Bill 290	350
Senate Bill 116	142	Senate Bill 293	214
Senate Bill 118	216	Senate Bill 303	211
Senate Bill 122	88	Senate Bill 304	247
Senate Bill 131	170	Senate Bill 309	94
Senate Bill 132	455	Senate Bill 310	383
Senate Bill 141	35	Senate Bill 311	383
Senate Bill 144	70	Senate Bill 312	471
Senate Bill 149	350	Senate Bill 313	485
Senate Bill 150	256	Senate Bill 315	70
Senate Bill 155	348	Senate Bill 316	89
Senate Bill 156	173	Senate Bill 321	256
Senate Bill 158	81	Senate Bill 322	234
Senate Bill 162	188	Senate Bill 323	29
Senate Bill 166	46	Senate Bill 324	193
Senate Bill 167	88	Senate Bill 327	151
Senate Bill 173	264	Senate Bill 328	327
Senate Bill 176	199	Senate Bill 329	123
Senate Bill 179	190	Senate Bill 331	81
Senate Bill 181	485	Senate Bill 332	479
Senate Bill 187	168	Senate Bill 333	390
Senate Bill 189	159	Senate Bill 335	175
Senate Bill 191	159	Senate Bill 341	398
Senate Bill 192	160	Senate Bill 349	434
Senate Bill 193	160	Senate Bill 350	364
Senate Bill 197	462	Senate Bill 351	10
Senate Bill 198	49	Senate Bill 356	280
Senate Bill 199	3	Senate Bill 360	486
Senate Bill 201	276	Senate Bill 364	257
Senate Bill 209	241	Senate Bill 365	472
Senate Bill 218	142	Senate Bill 367	426
Senate Bill 219	135	Senate Bill 370	486
Senate Bill 220	313	Senate Bill 373	268
Senate Bill 221	206	Senate Bill 377	81
Senate Bill 222	213	Senate Bill 378	4
Senate Bill 223	218	Senate Bill 385	123
Senate Bill 226	342	Senate Bill 386	193



Senate Bill 387	306	Senate Bill 525	131
Senate Bill 391	342	Senate Bill 527	127
Senate Bill 396	113	Senate Bill 528	183
Senate Bill 398	383	Senate Bill 529	25
Senate Bill 400	210	Senate Bill 530	257
Senate Bill 402	319	Senate Bill 533	161
Senate Bill 403	472	Senate Bill 539	327
Senate Bill 407	81	Senate Bill 540	445
Senate Bill 408	130	Senate Bill 542	257
Senate Bill 410	376	Senate Bill 543	314
Senate Bill 412	376	Senate Bill 544	83
Senate Bill 416	234	Senate Bill 545	360
Senate Bill 419	190	Senate Bill 548	457
Senate Bill 420	211	Senate Bill 551	445
Senate Bill 422	431	Senate Bill 554	230
Senate Bill 423	359	Senate Bill 558	383
Senate Bill 425	234	Senate Bill 563	247
Senate Bill 428	42	Senate Bill 564	392
Senate Bill 430	392	Senate Bill 567	230
Senate Bill 431	82	Senate Bill 569	480
Senate Bill 432	444	Senate Bill 573	480
Senate Bill 434	143	Senate Bill 577	264
Senate Bill 436	207	Senate Bill 578	89
Senate Bill 438	11	Senate Bill 579	231
Senate Bill 439	248	Senate Bill 580	399
Senate Bill 449	440	Senate Bill 582	29
Senate Bill 458	248	Senate Bill 587	59
Senate Bill 460	311	Senate Bill 594	156
Senate Bill 461	280	Senate Bill 601	384
Senate Bill 462	89	Senate Bill 602	301
Senate Bill 469	388	Senate Bill 604	70
Senate Bill 470	301	Senate Bill 605	59
Senate Bill 471	355	Senate Bill 609	481
Senate Bill 472	333	Senate Bill 613	154
Senate Bill 475	406	Senate Bill 626	140
Senate Bill 479	42	Senate Bill 627	98
Senate Bill 480	58	Senate Bill 628	384
Senate Bill 481	314	Senate Bill 629	406
Senate Bill 482	137	Senate Bill 630	406
Senate Bill 483	59	Senate Bill 633	193
Senate Bill 485	82	Senate Bill 638	248
Senate Bill 488	25	Senate Bill 639	199
Senate Bill 489	193	Senate Bill 646	113
Senate Bill 490	383	Senate Bill 647	224
Senate Bill 493	127	Senate Bill 650	388
Senate Bill 494	261	Senate Bill 652	421
Senate Bill 496	83	Senate Bill 653	241
Senate Bill 498	311	Senate Bill 656	124
Senate Bill 501	207	Senate Bill 660	481
Senate Bill 502	137	Senate Bill 662	154
Senate Bill 508	264	Senate Bill 663	154
Senate Bill 509	264	Senate Bill 682	431
Senate Bill 510	174	Senate Bill 683	399
Senate Bill 512	391	Senate Bill 684	410
Senate Bill 514	428	Senate Bill 688	83
Senate Bill 516	277	Senate Bill 690	327
Senate Bill 519	59	Senate Bill 691	392
Senate Bill 520	268	Senate Bill 692	392
Senate Bill 524	388	Senate Bill 693	392

Senate Bill 694	125	Senate Bill 866	343
Senate Bill 701	425	Senate Bill 867	288
Senate Bill 710	323	Senate Bill 873	183
Senate Bill 716	141	Senate Bill 874	214
Senate Bill 717	207	Senate Bill 875	127
Senate Bill 727	393	Senate Bill 877	90
Senate Bill 729	106	Senate Bill 880	50
Senate Bill 731	457	Senate Bill 882	90
Senate Bill 735	235	Senate Bill 886	60
Senate Bill 736	343	Senate Bill 887	84
Senate Bill 737	487	Senate Bill 888	389
Senate Bill 738	343	Senate Bill 889	328
Senate Bill 743	468	Senate Bill 890	11
Senate Bill 747	295	Senate Bill 893	4
Senate Bill 748	30	Senate Bill 894	168
Senate Bill 758	448	Senate Bill 896	280
Senate Bill 760	262	Senate Bill 898	117
Senate Bill 761	175	Senate Bill 899	417
Senate Bill 762	328	Senate Bill 900	377
Senate Bill 764	343	Senate Bill 901	113
Senate Bill 766	42	Senate Bill 910	277
Senate Bill 767	36	Senate Bill 914	400
Senate Bill 768	406	Senate Bill 917	379
Senate Bill 773	476	Senate Bill 918	224
Senate Bill 776	431	Senate Bill 924	117
Senate Bill 777	200	Senate Bill 932	306
Senate Bill 778	343	Senate Bill 934	70
Senate Bill 781	422	Senate Bill 937	113
Senate Bill 782	32	Senate Bill 942	411
Senate Bill 785	137	Senate Bill 943	474
Senate Bill 789	143	Senate Bill 953	72
Senate Bill 791	425	Senate Bill 957	243
Senate Bill 792	417	Senate Bill 959	458
Senate Bill 794	200	Senate Bill 966	344
Senate Bill 795	161	Senate Bill 969	168
Senate Bill 796	174	Senate Bill 975	190
Senate Bill 799	11	Senate Bill 977	94
Senate Bill 800	250	Senate Bill 978	400
Senate Bill 801	372	Senate Bill 980	476
Senate Bill 802	269	Senate Bill 981	474
Senate Bill 803	98	Senate Bill 983	477
Senate Bill 804	434	Senate Bill 987	393
Senate Bill 809	251	Senate Bill 988	94
Senate Bill 810	306	Senate Bill 990	389
Senate Bill 811	297	Senate Bill 992	319
Senate Bill 812	364	Senate Bill 993	144
Senate Bill 813	407	Senate Bill 1000	422
Senate Bill 816	453	Senate Bill 1002	277
Senate Bill 819	144	Senate Bill 1003	127
Senate Bill 820	138	Senate Bill 1008	26
Senate Bill 822	231	Senate Bill 1009	189
Senate Bill 832	400	Senate Bill 1010	75
Senate Bill 844	84	Senate Bill 1020	189
Senate Bill 847	384	Senate Bill 1024	84
Senate Bill 851	200	Senate Bill 1026	138
Senate Bill 855	474	Senate Bill 1030	262
Senate Bill 859	231	Senate Bill 1035	463
Senate Bill 860	384	Senate Bill 1042	348
Senate Bill 864	170	Senate Bill 1043	84

Senate Bill 1044	269	Senate Bill 1230	473
Senate Bill 1046	109	Senate Bill 1231	289
Senate Bill 1047	98	Senate Bill 1233	269
Senate Bill 1048	151	Senate Bill 1234	377
Senate Bill 1055	50	Senate Bill 1241	244
Senate Bill 1057	463	Senate Bill 1242	61
Senate Bill 1058	428	Senate Bill 1243	270
Senate Bill 1065	114	Senate Bill 1248	469
Senate Bill 1068	423	Senate Bill 1250	128
Senate Bill 1073	487	Senate Bill 1258	128
Senate Bill 1082	390	Senate Bill 1269	358
Senate Bill 1086	5	Senate Bill 1271	43
Senate Bill 1087	472	Senate Bill 1272	194
Senate Bill 1094	344	Senate Bill 1273	157
Senate Bill 1100	469	Senate Bill 1285	365
Senate Bill 1103	84	Senate Bill 1286	365
Senate Bill 1104	372	Senate Bill 1290	393
Senate Bill 1106	243	Senate Bill 1291	224
Senate Bill 1107	168	Senate Bill 1292	455
Senate Bill 1120	445	Senate Bill 1295	118
Senate Bill 1121	193	Senate Bill 1303	417
Senate Bill 1124	36	Senate Bill 1308	72
Senate Bill 1125	118	Senate Bill 1311	469
Senate Bill 1130	441	Senate Bill 1320	329
Senate Bill 1132	483	Senate Bill 1322	244
Senate Bill 1133	114	Senate Bill 1327	302
Senate Bill 1134	127	Senate Bill 1330	455
Senate Bill 1140	411	Senate Bill 1331	11
Senate Bill 1147	372	Senate Bill 1338	423
Senate Bill 1150	118	Senate Bill 1341	441
Senate Bill 1153	474	Senate Bill 1342	292
Senate Bill 1154	144	Senate Bill 1352	384
Senate Bill 1159	274	Senate Bill 1353	295
Senate Bill 1160	43	Senate Bill 1356	5
Senate Bill 1165	26	Senate Bill 1357	5
Senate Bill 1167	27	Senate Bill 1360	161
Senate Bill 1168	288	Senate Bill 1361	390
Senate Bill 1169	28	Senate Bill 1368	323
Senate Bill 1170	288	Senate Bill 1378	257
Senate Bill 1176	183	Senate Bill 1383	348
Senate Bill 1178	207	Senate Bill 1385	441
Senate Bill 1179	423	Senate Bill 1386	463
Senate Bill 1184	377	Senate Bill 1393	151
Senate Bill 1185	435	Senate Bill 1404	442
Senate Bill 1187	323	Senate Bill 1410	350
Senate Bill 1195	60	Senate Bill 1413	435
Senate Bill 1196	314	Senate Bill 1414	183
Senate Bill 1197	315	Senate Bill 1416	84
Senate Bill 1198	315	Senate Bill 1420	458
Senate Bill 1200	60	Senate Bill 1421	426
Senate Bill 1208	244	Senate Bill 1422	389
Senate Bill 1209	244	Senate Bill 1431	225
Senate Bill 1216	135	Senate Bill 1433	226
Senate Bill 1217	472	Senate Bill 1434	119
Senate Bill 1220	215	Senate Bill 1438	157
Senate Bill 1225	400	Senate Bill 1441	442
Senate Bill 1226	191	Senate Bill 1449	169
Senate Bill 1228	60	Senate Bill 1477	278
Senate Bill 1229	224	Senate Bill 1478	119

Senate Bill 1480	307	Senate Bill 1736	278
Senate Bill 1484	344	Senate Bill 1737	279
Senate Bill 1489	245	Senate Bill 1739	279
Senate Bill 1490	138	Senate Bill 1751	141
Senate Bill 1492	401	Senate Bill 1755	281
Senate Bill 1493	378	Senate Bill 1760	271
Senate Bill 1496	323	Senate Bill 1787	258
Senate Bill 1504	129	Senate Bill 1788	351
Senate Bill 1505	442	Senate Bill 1789	264
Senate Bill 1518	423	Senate Bill 1796	279
Senate Bill 1521	61	Senate Bill 1799	200
Senate Bill 1522	90	Senate Bill 1806	226
Senate Bill 1534	189	Senate Bill 1807	61
Senate Bill 1543	344	Senate Bill 1810	319
Senate Bill 1545	43	Senate Bill 1812	296
Senate Bill 1546	442	Senate Bill 1831	469
Senate Bill 1551	72	Senate Bill 1846	44
Senate Bill 1557	345	Senate Bill 1857	155
Senate Bill 1560	43	Senate Bill 1875	409
Senate Bill 1568	30	Senate Bill 1877	407
Senate Bill 1578	389	Senate Bill 1880	407
Senate Bill 1588	21	Senate Bill 1882	378
Senate Bill 1596	483	Senate Bill 1886	245
Senate Bill 1598	226	Senate Bill 1887	61
Senate Bill 1600	258	Senate Bill 1895	394
Senate Bill 1605	129	Senate Bill 1899	378
Senate Bill 1608	455	Senate Bill 1907	303
Senate Bill 1610	345	Senate Bill 1909	194
Senate Bill 1613	302	Senate Bill 1910	475
Senate Bill 1616	90	Senate Bill 1913	408
Senate Bill 1617	245	Senate Bill 1914	408
Senate Bill 1618	425	Senate Bill 1915	408
Senate Bill 1619	351	Senate Bill 1916	408
Senate Bill 1620	351	Senate Bill 1920	401
Senate Bill 1630	289	Senate Bill 1922	379
Senate Bill 1635	278	Senate Bill 1925	469
Senate Bill 1636	73	Senate Bill 1926	175
Senate Bill 1638	302	Senate Bill 1927	449
Senate Bill 1649	74	Senate Bill 1928	417
Senate Bill 1660	278	Senate Joint Resolution 4	487
Senate Bill 1661	155	Senate Joint Resolution 9	74
Senate Bill 1662	194	Senate Joint Resolution 14	446
Senate Bill 1664	361	Senate Joint Resolution 16	443
Senate Bill 1667	366	Senate Joint Resolution 26	151
Senate Bill 1668	368	Senate Joint Resolution 28	372
Senate Bill 1669	368	Senate Joint Resolution 37	106
Senate Bill 1680	91	Senate Joint Resolution 50	201
Senate Bill 1681	91		
Senate Bill 1686	74		
Senate Bill 1687	47		
Senate Bill 1692	262		
Senate Bill 1693	475		
Senate Bill 1698	47		
Senate Bill 1714	251		
Senate Bill 1716	44		
Senate Bill 1719	459		
Senate Bill 1726	189		
Senate Bill 1732	274		
Senate Bill 1733	289		