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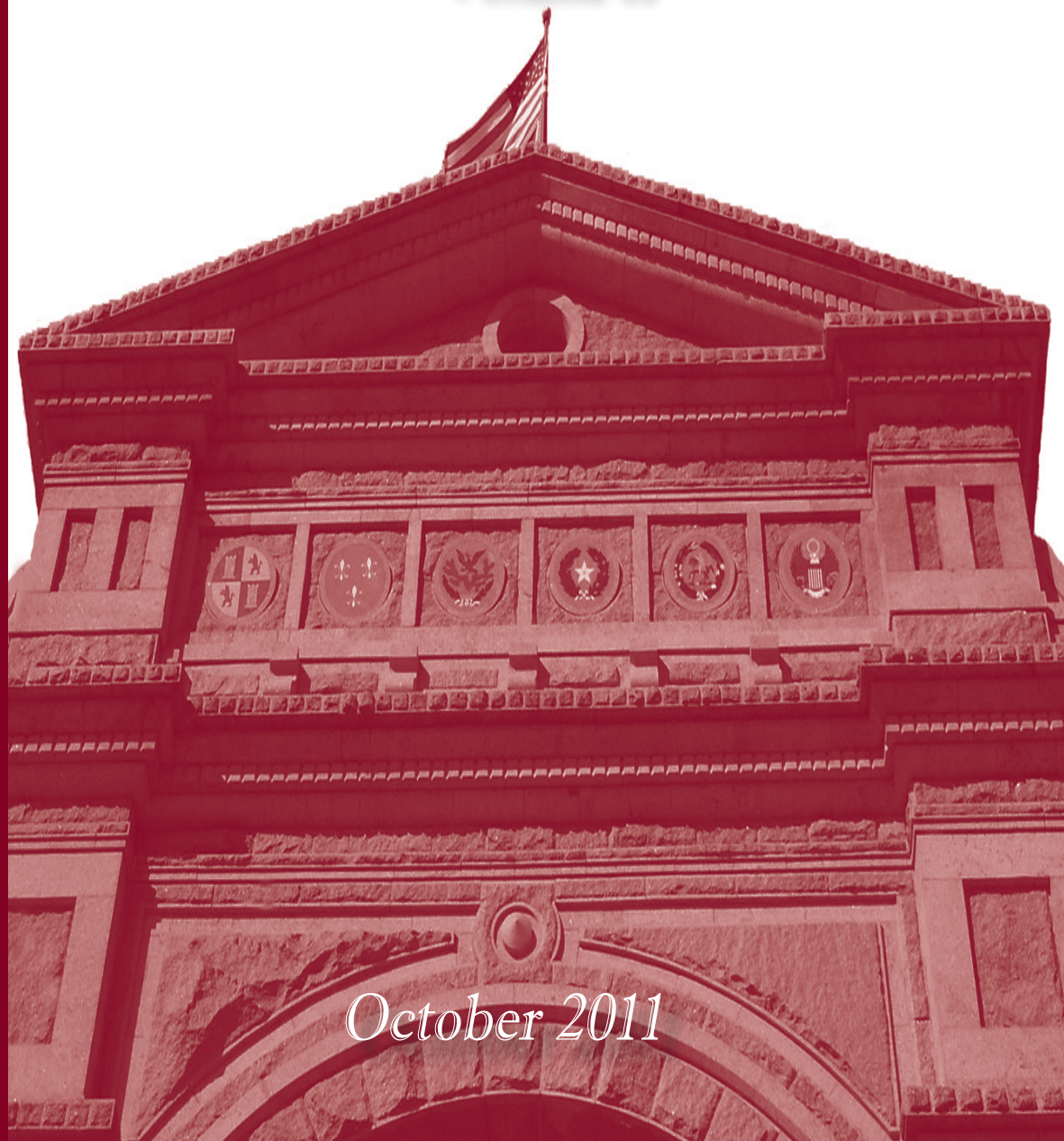
Highlights

of the 82nd

TEXAS LEGISLATURE

A Summary of Enrolled Legislation

Volume II



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Regulation of Equine Dentistry—H.B. 414

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

H.B. 414 amends current law relating to the regulation of equine dentistry and the conducting of licensing examinations by the Texas State Board of Veterinary Medical Examiners (TSBVME). This bill:

Defines "equine dentistry" and "licensed equine dental provider."

Prohibits a person from practicing, or offering or attempting to practice, veterinary medicine unless the person holds a license to practice veterinary medicine.

Prohibits a person from practicing, offering, or attempting to practice equine dentistry unless the person is a veterinarian or a licensed equine dental provider.

Sets forth requirements relating to eligibility for a license to practice veterinary medicine or equine dentistry. Sets forth requirements relating to the practice of equine dentistry and the performance of certain procedures.

Requires TSBVME to conduct licensing examinations as provided by TSBVME rule.

Establishes the Equine Dental Provider Advisory Committee.

Restrictions on Charitable Raffles—H.B. 457

by Representative Craddick—Senate Sponsor: Senator Nelson

Restrictions on raffle promotion and ticket sales in the Occupations Code prohibit an organization from using paid advertising to promote a raffle or sell raffle tickets and from compensating a person for organizing or conducting a raffle. This bill:

Prohibits an organization from promoting or advertising a raffle statewide, other than on the organization's Internet website or through publication or solicitation, including a newsletter, social media, or electronic mail, provided only to previously identified supporters of the organization.

Authorizes a member of an organization who is employed by the organization to organize and conduct a raffle, but prohibits the member's work organizing or conducting a raffle from being more than a de minimis portion of the member's employment with the organization.

Exemption of Requirement for a Fishing License for Certain Residents—H.B. 550

by Representative Dutton—Senate Sponsor: Senator Jackson

Currently, a Texas resident who was born before September 1, 1930, is not required to pay the fee for a general fishing license issued in the state. However, a Texas resident born after that date is required to pay the license fee. This bill:

Extends the exemption from the requirement for a general fishing license to a Texas resident whose birth date is before January 1, 1931.

Continued Issuance of Freshwater Fishing Stamps—H.B. 790

by Representative Kuempel—Senate Sponsor: Senator Hegar

H.B. 1989, enacted by the 78th Legislature, authorized the Texas Parks and Wildlife Commission (TPWC) to create a stamp that would be required of most anglers fishing in fresh water. The funds generated from the sale of the stamp were dedicated for the repair, maintenance, renovation, or replacement of freshwater fish hatcheries and the purchase of fish for stocking the public waters of the state. Current statutes relating to freshwater fishing stamps are set to expire in 2014. This bill:

Repeals Section 43.809, Parks and Wildlife Code, relating to the Sunset provision of the Freshwater Fishing Stamp to allow the Texas Parks and Wildlife Department (TPWD) to continue to sell the Freshwater Fishing Stamp past its original expiration date of September 1, 2014, making it a permanent part of TPWD's revenue structure.

Exemptions From Certain Requirements of a Hunter Education Program—H.B. 1080

by Representative Gallego—Senate Sponsor: Senator Hinojosa

Current law requires that all in-state and out-of-state Texas hunters complete a hunter education program and course that is administered or offered by TPWD or TPWC. Active duty military personnel and honorably discharged veterans are among the most efficient and safe handlers of weapons because of their extensive military training. This bill:

Exempts 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 the live firing portion of a hunter education course required by state law.

Regulation of Athlete Agents—H.B. 1123

by Representative Dutton—Senate Sponsor: Senator West

If a student-athlete receives money, gifts, or anything of value from an athlete agent, the student-athlete can lose an athletic scholarship and the student-athlete's college or university can face severe consequences. H.B. 1123 will hold athlete agents accountable for their actions by providing stricter administrative and criminal penalties for agents who violate certain regulations and by requiring an athlete agent to deposit a surety bond with the Office of the Secretary of State (SOS) before contacting an athlete or entering into an agent contract with an athlete in Texas. This bill:

Requires SOS to publish on the SOS's Internet website information that prescribes the compliance certain responsibilities of an institution of higher education.

Requires SOS to notify the athletic director or other appropriate official of each institution of higher education of any change to the compliance responsibilities of the institution.

Prohibits an individual from acting as an athlete agent in this state or representing that the individual is an athlete agent in this state unless the individual holds a certificate of registration as a professional athlete agent or a limited athlete agent.

Prohibits an individual from registering as a professional athlete agent unless the individual is certified as an agent by a national professional sports association.

Authorizes an individual who is not certified as an agent by a national professional sports association to register only as a limited athlete agent and authorizes a limited athlete agent to only represent an athlete in a sport that does not have a national professional sports association.

Provides that an agent contract with an athlete in a sport for which there is a national professional sports association is void if the contract is negotiated by an athlete agent holding a limited certificate of registration.

Prohibits a person who is not an individual from registering as an athlete agent in this state.

Requires an applicant to provide information required by SOS, including, among other things, whether the applicant or a person has been subject to a conviction of a crime that in this state is a Class A or Class B misdemeanor, a felony, or a crime of moral turpitude; and the name and address of each national professional sports association that has certified the applicant as an agent.

Requires a renewal application to include the name, address, and telephone number of each athlete for whom the athlete agent is performing professional services for compensation on the date of the renewal application; for whom the athlete agent has performed professional services for compensation during the three years immediately preceding the date of the renewal application but for whom the athlete agent is not performing professional services on the date of the renewal application; and the name and address of each national professional sports association by which the athlete agent is currently certified.

Requires a registered athlete agent to notify SOS in writing of the athlete agent's conviction of a crime that in this state is an offense other than a Class C misdemeanor; or decertification as an agent by a national professional sports association that has become final by the conclusion of the appeal process provided by the association.

Requires SOS to revoke the certificate of registration of an athlete agent decertified by a national professional sports association.

Requires an athlete agent to, before contacting an athlete or entering into an agent contract with an athlete in this state, deposit with SOS a surety bond, in the amount of \$50,000, payable to the state and conditioned on the athlete agent complying with provisions of this bill; the payment of any administrative penalty; and the payment of any damages awarded to an institution of higher education or an athlete as a result of the athlete agent offering or providing a thing of value to an athlete or a family member of the athlete.

Requires an athlete agent to maintain a bond deposited for not less than two years after the later of the date that the athlete agent ceases to provide financial services to an athlete; or the date that the athlete agent's certificate of registration expires or is revoked.

Requires SOS by rule to require that, to the extent practicable, the form for an agent contract or financial services contract conforms to the contract form approved by the national professional sports association for the sport in which the athlete will be represented.

Requires a registered athlete agent to, not later than the 10th day, rather than fifth day, after the date an athlete signs an agent contract or financial services contract, file a copy of the contract with the secretary of state and if the athlete is a student at an institution of higher education, the athletic director of the athlete's institution.

Prohibits an athlete agent from, among other things:

- dividing fees with or receiving compensation from a person exempt from registration; a professional sports league or franchise, including a representative or employee of the league or franchise; or an institution of higher education, including a representative or employee of the institution's athletics department;

- before an athlete completes the athlete's last intercollegiate sports contest, offering a thing of value to the athlete or an individual related to the athlete within the second degree by affinity or consanguinity to induce the athlete to enter into an agreement with the athlete agent in which the athlete agent will represent the athlete;
- before an athlete completes the athlete's last intercollegiate sports contest, furnishing a thing of value to the athlete or an individual related to the athlete within the second degree by affinity or consanguinity; or
- committing 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.

Requires SOS to determine the amount of a penalty assessed, except that the amount is prohibited from exceeding \$50,000 for certain violations or \$25,000 for any other violation.

Authorizes SOS to, if an athlete agent fails to pay the administrative penalty, revoke the agent's certificate of registration, refuse to renew the agent's certificate of registration, or refuse to issue a certificate of registration to the agent.

Provides that an offense committed by an athlete agent who intentionally or knowingly violates certain sections of this bill is a third degree felony.

Requires SOS to send notice of an athlete agent's conviction of an offense to each national professional sports association that has certified the agent.

Authorizes an athlete adversely affected by an athlete agent's violation to file suit against the athlete agent for damages.

Provides that an athlete is adversely affected by an athlete agent's violation if the athlete agent's violation causes a national association for the promotion and regulation of intercollegiate athletics to disqualify or suspend the athlete from participating in intercollegiate sports contests; and the disqualification or suspension of the athlete causes the athlete to suffer an adverse financial impact.

Regulation of Appraisal Management Companies—H.B. 1146

by Representatives Kuempel and Margo—Senate Sponsor: Senator Carona

An appraisal management company (AMC) is a business entity that administers networks of independent appraisers to fulfill real estate appraisal assignments on behalf of lenders. The AMC recruits, qualifies, verifies licensure, and negotiates fees and service level expectations with a network of third-party appraisers. The AMC is also responsible for many tasks associated with the collateral valuation process, including appraisal review, quality control, market value dispute resolution, warranty administration, and record retention. To date, AMCs have not been subject to government oversight or regulation. This bill:

Requires the Texas Appraiser Licensing and Certification Board (TALCB) to establish an advisory committee to advise TALCB and make recommendations on matters related to the regulation of AMCs.

Adds Chapter 1104 (Appraisal Management Companies), Occupations Code, and provides that the purpose of Chapter 1104 is to establish and enforce standards related to AMCs for appraisal reports on residential properties located in this state with fewer than five units.

Provides that Chapter 1104 does not apply to:

- a person who exclusively employs appraisers on an employer and employee basis for the performance of appraisals;
- a person acting as an appraisal firm as defined by board rule that at all times during a calendar year employs on an exclusive basis as independent contractors not more than 15 appraisers for the performance of appraisals;
- a financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government;
- a person who enters into an agreement with an appraiser for the performance of an appraisal that on completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal;
- an AMC with an appraisal panel of not more than 15 appraisers at all times during a calendar year; or
- an AMC that is a subsidiary owned and controlled by a financial institution that is subject to certain appraisal independence standards or the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) through regulation by an agency of this state or the United States government.

Prohibits an AMC from requiring an employee of the AMC who is an appraiser to sign an appraisal that is completed by another appraiser who contracts with the AMC in order to avoid the requirements Chapter 1104.

Authorizes TALCB to adopt rules necessary to administer the provisions of Chapter 1104.

Requires TALCB by rule to establish application, renewal, and other fees in amounts so that the sum of the fees paid by all AMCs seeking registration is sufficient for the administration of Chapter 1104.

Prohibits a person, unless the person is registered under Chapter 1104, from acting or attempting to act as an AMC; providing or attempting to provide appraisal management services; or advertising or representing or attempting to advertise or represent the person as an AMC.

Prohibits a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state from owning in any manner more than one percent of an AMC registered or applying for registration unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

Prohibits an entity more than 10 percent of which is owned by any person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state from owning more than 10 percent of an AMC registered or applying for registration under Chapter 1104 unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

Requires a person owning more than 10 percent of an AMC in this state to be of good moral character, as determined by TALCB and submit to a background investigation, as determined by TALCB.

Requires an AMC applying for registration to certify to TALCB that it has reviewed each entity that owns more than 10 percent of the company; and no entity reviewed is more than 10 percent owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation and who has not subsequently had a license or certificate to act as an appraiser granted or reinstated.

Sets forth requirements for the application for registration or registration renewal under Chapter 1104.

Authorizes TALCB to deny a registration to an applicant who fails to satisfy a requirement of Chapter 1104 or on a determination by TALCB.

Prohibits an AMC from knowingly:

- employing a person in a position in which the person has the responsibility to order appraisals or to review completed appraisals if the person has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state;
- entering into any independent contractor arrangement for the provision of appraisals or appraisal management services with any person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state; or
- entering into any contract, agreement, or other business relationship for the provision of appraisals or appraisal management services with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state.

Requires an AMC to verify that an individual to whom the company is making an assignment for the completion of an appraisal is licensed or certified under Chapter 1103 (Real Estate Appraisers); and has not had a license or certificate as an appraiser denied, revoked, or surrendered in lieu of revocation since the last time the company made an assignment for an appraisal to the appraiser.

Requires a person who performs an appraisal review for an AMC to be licensed or certified under Chapter 1103 (Real Estate Appraisers) with at least the same certification for the property type as the appraiser who completed the report being reviewed.

Requires an AMC, before making an assignment to an appraiser, to verify that the appraiser receiving the assignment satisfies each provision of the competency rule of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.

Requires an AMC registered to on a periodic basis perform an appraisal review of the work of appraisers performing appraisal services for the company to ensure that the services comply with the edition of the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal or other standards prescribed by TALCB rule.

Requires an AMC to retain for at least five years all business records relating to each service request that the company receives and the appraiser who performs the appraisal for the company.

Requires an AMC to pay an appraiser, except in cases of breach of contract or substandard performance of services, for the completion of an appraisal or valuation assignment not later than the 60th day after the date the appraiser provides the completed appraisal or valuation assignment to the company or its assignee; and compensate appraisers at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law.

Requires an AMC, in reporting to a client, to separately state the fees paid to an appraiser for the completion of an appraisal and charged by the company for appraisal management services.

Requires an AMC to disclose the company's registration number on all documents used to procure appraisals in this state.

Requires an AMC that has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice in a manner that materially affects a value conclusion, violating applicable laws, or otherwise engaging in unethical or unprofessional conduct to refer the matter to TALCB.

Prohibits a company, other than during the first 30 days after the date an appraiser is first added to the appraisal panel of an AMC, from removing an appraiser from its panel, or otherwise refusing to assign requests for appraisal services to an appraiser without meeting certain conditions.

Authorizes TALCB to reprimand an AMC or conditionally or unconditionally suspend or revoke any registration issued under Chapter 1104 if TALCB determines that the AMC has violated or attempted to violate Chapter 1104 or any rule adopted by TALCB; or procured or attempted to procure a license or registration by fraud, misrepresentation, or deceit.

Authorizes TALCB to impose, in addition to any other disciplinary action, an administrative penalty against a person who violates Chapter 1104 or a rule adopted under Chapter 1104.

Prohibits an AMC or an employee, director, officer, or agent of an AMC from:

- causing or attempting to cause the appraised value of a property assigned under an appraisal to be based on any factor other than the independent judgment of the appraiser;
- causing or attempting to cause the mischaracterization of the appraised value of a property in conjunction with a consumer credit transaction;
- seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;
- altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser by altering or removing the appraiser's signature or seal; or adding information to, removing information from, or changing information contained in the appraisal report, including any disclosure submitted by an appraiser in or with the report;
- conditioning the request for an appraisal or the payment of an appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;
- requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time before the appraiser's completion of an appraisal;
- providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for a purchase transaction may be provided;
- making any part of the appraiser's fee or the AMC's fee contingent on a favorable outcome, including a loan closing, or a specific valuation being achieved by the appraiser in the appraisal report;
- withholding or threatening to withhold timely payment for an appraisal report or appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties;
- withholding or threatening to withhold future business from an appraiser;
- demoting or terminating or threatening to demote or terminate an appraiser;
- expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
- providing to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits;
- allowing the removal of an appraiser from an appraisal panel, without prior written notice to the appraiser;
- obtaining, using, or paying for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and that basis is clearly and appropriately noted in the loan file; the subsequent appraisal or automated valuation model is done under a bona fide pre-funding or post-funding appraisal review or quality control process; or the subsequent appraisal or automated valuation model is otherwise required or permitted by federal or state law;
- prohibiting legal and allowable communication between the appraiser and the lender, real estate license holder, any other person from whom the appraiser, in the appraiser's own professional judgment, believes

information would be relevant;

- refusing to accept an appraisal report prepared by more than one appraiser if an appraiser provides substantial assistance to another appraiser in the preparation of the report, unless the appraisal assignment names an individual appraiser or the statement of work requires an unassisted report; or
- requiring an appraiser to:
 - prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area and the appraiser has notified the company of the belief;
 - prepare an appraisal report under a schedule that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the company of this belief;
 - provide the AMC with the appraiser's digital signature or seal;
 - modify any aspect of an appraisal report without the appraiser's agreement that the modification is appropriate;
 - engage in any act or practice that does not comply with the Uniform Standards of Professional Appraisal Practice or any assignment conditions and certifications required by the client;
 - engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality;
 - enter into an agreement to not serve on the panel of another AMC;
 - indemnify or hold harmless the AMC against liability except liability for errors and omissions by the appraiser; or
 - pay a fee imposed on the AMC.

Sets forth provisions relating to disciplinary actions and procedures relating to AMCs, including complaints, review and investigation by TALCB, report of an investigation, actions based on the report, notices of violation, penalty, and hearing, temporary suspension of registration, action after a hearing, decision by TALCB, application for a rehearing, and a decision on a rehearing.

Provides that a person who receives consideration for engaging in an activity for which registration is required under Chapter 1104 and who is not registered is liable for a civil penalty.

Provides that a person commits an offense if the person engages in an activity for which registration is required under Chapter 1104 without being registered and provides that such an offense is a Class A misdemeanor.

Certification Requirements for Certain Property Tax Professionals—H.B. 1179

by Representatives Flynn and Pitts—Senate Sponsor: Senator Deuell

In 2009, the Texas Legislature adopted the recommendation of the Sunset Advisory Commission to abolish the Board of Tax Professional Examiners and to transfer its functions to the Texas Department of Licensing and Regulation (TDLR). Currently, persons who register with TDLR as appraisers, assessors, or collectors have strict deadlines for achieving the highest possible certification available in their respective fields. Some registrants have difficulty meeting these deadlines due to unforeseen circumstances, work schedules, and a lack of predictable course offerings. This bill:

Requires a person registered as an appraiser to become certified as a registered professional appraiser not later than the fifth anniversary of the date of the person's original registration.

Requires the person to obtain certification by successfully completing the certification requirements established by Texas Commission of Licensing and Regulation (TCLR) rule or, if the person is certified or licensed under Chapter 1103 (Real Estate Appraisers) as an appraiser by the Texas Appraiser Licensing and Certification Board, by passing the appropriate examination required under Section 1151.161 (Examination for Certification; Application; Fee).

Requires a person registered as an assessor or assessor-collector to become certified as a registered Texas assessor not later than the fifth anniversary of the date of the person's original registration. Requires a person registered as a collector to become certified as a registered Texas collector not later than the third anniversary of the date of the person's original registration. Entitles a registrant who has not obtained the certification required within the time required by the applicable subsection to a one-year extension to meet the certification requirements under certain conditions. Requires TCLR to adopt rules as necessary to implement Section 1151.161.

Authorizes a person who has not satisfied the requirements for certification within the time required by Section 1151.160 to apply for reinstatement of a registration if that person obtained registration before December 31, 2010, as a Class II collector, a Class III appraiser, or a Class III assessor-collector as defined by a rule adopted by TCLR under Section 1151.160 (Certification Levels and Requirements).

Authorizes a qualified person to apply for reinstatement of a registration if, before December 31, 2011, that person pays a \$250 fee, and files a completed reinstatement application on a form prescribed by TDLR. Provides that a registration reinstated expires on December 31, 2013, and is prohibited from being renewed unless the applicant satisfies all registration and certification requirements, including any education and examination requirements, before December 31, 2013.

Authorizes TCLR to adopt rules to allow a registrant to place a registration issued by TDLR on inactive status in the same manner as a license is placed on inactive status under Section 51.4011 (Inactive Status).

Alcoholic Beverage Permit or License for Certain Organizations—H.B. 1469

by Representative Hernandez Luna—Senate Sponsor: Senator Gallegos

Currently, a fraternal organization or veterans organization applying for certain alcoholic beverage permits or licenses in connection with an establishment located in a county with a population of at least 1.4 million is required to file a surety bond with the Texas Alcoholic Beverage Commission (TABC) as assurance that the permit or license holder will conform to the state's alcoholic beverage laws and TABC rules. According to certain sources, fraternal and veterans organizations have a lower incidence of violations or offenses that would result in the suspension or cancellation of the organization's permit or license, making such organizations a low risk to public health and safety. Yet, such organizations are prohibited from operating for as many hours or charging its members the same prices as a retail establishment, resulting in a loss of revenue for the organizations. This bill:

Amends the Alcoholic Beverage Code to exempt a fraternal organization or a veterans organization from the requirement to file a surety bond with the TABC to apply for a beer retailer's license or a wine and beer retailer's permit held in connection with an establishment located in a county with a population of at least 1.4 million for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

Standards of Weights and Measures—H.B. 1527*by Representative Sid Miller—Senate Sponsor: Senator Uresti*

The Texas Department of Agriculture (TDA) oversees a weights and measures program to protect consumers and businesses by ensuring that equity prevails in all commercial transactions involving determinations of quantity. The equipment used to test the devices for accuracy is calibrated at TDA's metrology lab. The lab maintains primary standards, which are certified by the National Institute of Standards and Technology every 10 years. The National Institute of Standards and Technology (NIST) is phasing out of the calibration and certification of state standards and has encouraged states to now seek these services at an NIST-approved lab. TDA currently lacks the statutory authority to use an NIST-approved lab for these services. This bill:

Requires TDA to maintain the primary standards, rather than the official standards, in a safe and suitable place in the offices of TDA. Prohibits the standards from being moved except for repairs or certification.

Requires TDA to maintain the standards in good order and to submit them to the National Institute of Standards and Technology or to a laboratory approved by the National Institute of Standards and Technology for certification at least once each 10 years.

Electrical Sign Apprentice Licenses—H.B. 1625*by Representative Brown—Senate Sponsor: Senator Carona*

A holder of an electrical apprentice license who is not enrolled in an apprenticeship training program must complete four hours of continuing education. However, a holder of an electrical sign apprentice license does not need to complete continuing education. This bill:

Requires a license holder who is not enrolled in an apprenticeship training program, to renew an electrical apprentice license or electrical sign apprentice license, to complete four hours of continuing education annually.

Regulation of Roadside Vendors and Solicitors in Certain Counties—H.B. 1768 [Vetoed]*by Representative Munoz, Jr., et al.—Senate Sponsor: Senator Hinojosa*

Hidalgo County considers the solicitation of business by unregulated roadside vendors a major problem in unincorporated areas of the county. The vendors create traffic and other health and safety issues, encroach into rights-of-way, and skirt sales tax laws. Although current law provides regulatory authority to the county, having to go through the county attorney or district attorney for enforcement is timely and inefficient. This bill:

Authorizes certain counties with a population of 450,000 or more to enforce Section 285.004 (Violation of Regulation; Offense) of the Transportation Code, which provides for the regulation of roadside vendors.

Importation of Alcoholic Beverages for Personal Consumption—H.B. 1936*by Representative Gutierrez—Senate Sponsor: Senator Lucio*

TABC staffs tax collection operations at ports of entry along the Texas-Mexico border. TABC collects the tax on alcohol and tobacco coming into Texas from Mexico. Population growth, increased operational costs, and the need to establish operations on new international bridges has led TABC port operations to become fiscally non-self-sufficient. Current law authorizes TABC to exact a 50-cent administrative fee on alcoholic beverages. Current law also allows a Texas resident to import a quart of liquor but allows a non-resident to import a gallon. This bill:

Authorizes a person to import not more than 24 12-ounce bottles or an equivalent quantity of malt beverages, three gallons of wine, and one gallon of distilled spirits for the person's own personal use without being required to hold a permit.

Requires a person importing alcoholic beverages into the state under this section to pay the state tax on alcoholic beverages and an administrative fee of \$3 and to affix the required tax stamps.

Prohibits a minor and an intoxicated person from importing alcoholic beverages into the state.

Requires a person importing alcoholic beverages to personally accompany the alcoholic beverages as the alcoholic beverages enter the state.

Prohibits a person from using the exemptions set forth in this bill more than once every 30 days.

Authorizes a person who is relocating a household to import, or contract, with a motor carrier or another person to import, a personal malt beverage, wine, or distilled spirit collection as part of that person's household goods.

Provides that Section 107.07 (Importation for Personal Use; Importation by Railroad Companies), Alcoholic Beverage Code, does not apply not apply to a person who is importing a personal malt beverage, wine, or distilled spirit collection.

Repeals Sections 107.07(b) (relating to the importation of beer into the state for personal use) and (c) (relating to treating a member of the armed forces stationed in Texas as a Texas resident) and 107.12 (Direct Shipment of Wine), Alcoholic Beverage Code.

Notice of Alcoholic Beverage Permit or License Application—H.B. 1953

by Representative Kuempel—Senate Sponsor: Senator Eltife

Current law provides for a 60-day notification by sign before an application can be made for a permit for a location not previously permitted for the on-premise consumption of alcoholic beverages. When the 60-day notice period ends, an application is sent to the Austin headquarters of TABC and is considered to be filed. Advancements in digital technology have resulted in applications filed at a TABC district office being simultaneously received at TABC headquarters in Austin. This has resulted in a delay of time after the notification period ends before the permit is issued. This bill:

Requires an applicant for a permit issued under the Alcoholic Beverage Code for a location not previously licensed for the on-premises consumption of alcoholic beverages, not later than the 60th day before the date the permit is issued, rather than not later than the 60th day before the date the application is filed, 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, and the name and business address of the applicant.

Appeal of Texas Alcoholic Beverage Commission Order—H.B. 1956

by Representative Thompson—Senate Sponsor: Senator Carona

Currently, Section 32.18 (Appeals From Orders of Commission or Administrator), Alcoholic Beverage Code, requires that all causes be tried before a judge within 10 days from the filing of the appeal. The current deadline for a district court judge to conduct a trial on an appeal of an order of TABC or its administrator refusing, canceling, or suspending a TABC license or permit is unrealistic, given that the judge may need to review hundreds of pages of documents in

order to make a decision. The deadline does not provide the Office of the Attorney General, which represents TABC in such appeals, sufficient time to prepare for trial. This bill:

Provides that rules applicable to ordinary civil suits apply, with certain exceptions, which are required to be construed literally and that include the case being required to be tried before a judge within 20 days from the date it is filed and all causes being required to be tried before the judge within 20 days from the filing, and neither party being entitled to a jury.

Appeal of Wet or Dry Status—H.B. 1959

by Representative Thompson—Senate Sponsor: Senator Carona

Under the Alcoholic Beverage Code, when an application for a license or permit is filed, the county clerk, city clerk, or city secretary, as appropriate, is required to certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited. In the past, when the county clerk, city clerk, or city secretary refused to certify the wet or dry status of the application or certified that the location listed in the application was not in a wet area and the applicant disagreed with the certification, TABC set the matter for hearing with the county judge and provided the applicant with the opportunity to introduce evidence and cross examine witnesses. Currently, when the county clerk, city clerk, or city secretary refuses to certify an application or certifies that the location listed in the application is not in a wet area, TABC automatically refuses to issue the permit or license, and refuses the applicant's request to contest the certification of the county clerk, city clerk, or city secretary. This bill:

Provides that, notwithstanding any other provision of the Alcoholic Beverage Code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the application is not in a wet area or refuses to issue the certification, the applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify.

Requires the applicant to submit a written request to the county judge for a hearing.

Requires the county judge to conduct a hearing not later than the 30th day after the date the county judge receives the written request.

Regulations of Boat Manufacturers, Distributors, and Dealers—H.B. 1960

by Representatives Deshotel et al.—Senate Sponsor: Senator Jackson

Chapter 2352 (Boat Manufacturers, Distributors, and Dealers), Occupations Code, was enacted in 1991 to regulate the wholesale distribution of boats and boat motors by all manufacturers supplying Texas dealers. Chapter 2352 requires manufacturers to enter into dealer agreements with dealers that meet certain minimum standards addressing term, dealer territory, performance, and product standards, and manufacturer warranty work rates and reimbursement, and provides for other related regulatory requirements. This bill:

Prohibits a manufacturer or distributor contracting with a dealer from selling or offering for sale, and prohibits a dealer from purchasing or offering to purchase, a new boat or a new boat motor, rather than outboard motor, unless the manufacturer or distributor and the dealer enter into an agreement that complies with this chapter.

Requires that an agreement include certain information including length of agreement, performance standards, working capital, termination provisions, expected obligations, standards, and dispute resolution procedures.

Requires a dealer and manufacturer, at the end of the first year of an agreement, to evaluate the dealer's progress in meeting the agreement's performance standards, marketing standards, and line of credit standards, to determine whether to enter into a new three-year agreement.

Provides that if the dealer and manufacturer enter into a new agreement, the initial agreement is void.

Provides that if the dealer and manufacturer do not enter into a new agreement, the dealer and manufacturer are bound by the terms and conditions of the initial agreement.

Requires a manufacturer to make reasonable efforts to provide a dealer with information regarding the dealer's compliance with performance standards.

Requires that performance standards be evaluated on an annual basis and, if a dealer and manufacturer agree, authorizes the standards to be adjusted to promote the sale of the manufacturer's products.

Provides that if revised performance standards are not agreeable, the initial performance standards remain in place until the expiration of the agreement.

Prohibits a manufacturer, during the term of an agreement, from appointing another authorized dealer for the sale of the manufacturer's boats in a dealer's territory.

Prohibits a dealer, except for purposes of advertising without an advertised price or with a manufacturer's suggested retail price, from advertising or promoting the sale of the manufacturer's boats outside the dealer's territory, including through the Internet.

Prohibits a dealer from using a broker in another dealer's territory to sell a manufacturer's boat.

Provides that this chapter does not prohibit a dealer from selling a boat to a customer residing outside of the dealer's territory who independently visits the dealership and seeks to purchase a boat from the dealer.

Sets forth the default provisions by a manufacturer, distributor, or dealer.

Provides that good cause is not required for the nonrenewal of an agreement.

Authorizes the former dealer, after a manufacturer or distributor terminates or does not renew an agreement, to continue to purchase parts and accessories to service the products covered by the agreement until the first anniversary of the date of termination or nonrenewal.

Requires a manufacturer or distributor to approve or disapprove a dealer's written claim for warranty work not later than the second business day after the date of receipt of the claim.

Requires the manufacturer or distributor, if the claim is approved, to pay the claim not later than the 30th day after the date of receipt of the dealer's written invoice or written proof of completion of the warranty work, rather than within a reasonable time.

Prohibits a manufacturer or distributor from auditing a claim filed for warranty work after the first anniversary of the date the claim is submitted.

Requires a manufacturer to act as the single source of contact for the dealer for the manufacturer's component product warranty, other than an engine-related product warranty.

Requires a manufacturer, after signing an agreement, to provide the dealer with a written statement of the approximate amount of time the manufacturer takes to deliver a part to the dealer.

Requires a manufacturer or distributor who terminates an agreement to repurchase on demand from the dealer certain items purchased by the dealer from the manufacturer or distributor, that are free and clear of a lien or encumbrance.

Requires that a demand for repurchase be made in writing not later than the 90th day after the date the manufacturer or distributor terminates the agreement.

Requires the dealer to provide the manufacturer or distributor with a complete list of the items to be repurchased.

Requires the manufacturer or distributor to complete the repurchase not later than the 30th day after the date the dealer demands the repurchase.

Provides that a manufacturer or distributor who violates this chapter is liable to this state for a civil penalty.

Prohibits the amount of the penalty from exceeding \$500 for each violation.

Authorizes the attorney general to sue to collect a civil penalty for the violation.

Authorizes the attorney general to recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

Dealings Between a Wholesaler and Retailer of Alcoholic Beverages—H.B. 2012

by Representative Thompson—Senate Sponsor: Senator Gallegos

A retailer of alcoholic beverages in Texas purchasing wine from the holder of a wholesaler's permit for resale to consumers has the option of making the purchase on credit terms. The holder of a winery permit in Texas is authorized to purchase wine from such a wholesaler for resale to a consumer on the winery's premises but is prohibited from using credit terms for the purchase. This bill:

Provides that the holder of a winery permit issued 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.

Municipal Regulation of the Discharge of Firearms—H.B. 2127

by Representative Geren—Senate Sponsor: Senator Harris

Many land owners in certain areas of Texas whose land was annexed after September 1, 1981, are currently authorized to use the land for hunting purposes. Observers note that legislation enacted by a recent legislature granted owners of large tracts of land the ability to discharge firearms on those tracts of land and to lease the land for hunting purposes while still maintaining public safety and the protection of surrounding hospitals, parks, schools, and residential areas. Interested parties contend that the scope of this authorization should be expanded so that additional landowners in certain areas may use land in the same manner without jeopardizing public safety or compromising the public's welfare. This bill:

Prohibits 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 of certain firearms or

other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality on or before September 1, 1981.

Practice of Architecture and Engineering—H.B. 2284

by Representative Hardcastle—Senate Sponsor: Senator Deuell

Current state law does not address the overlap between the professions of engineering and architecture, leading to a dispute regarding the scope of the practice of engineering. This bill:

Provides that the practice of engineering does not include, and engineers are prohibited from engaging in or offering to engage in, except as provided by law, the practice of architecture as defined by certain sections of the Occupations Code relating to the definition of the practice of architecture.

Prohibits an engineer from preparing or providing a complete, comprehensive set of building plans for a building designed for human use or occupancy unless the plans and specifications are prepared by, or under the supervision of, an architect; the building is part of a certain project; or the engineer has received administrative approval by the Texas Board of Architectural Examiners (TBAE) to practice architecture.

Provides that an engineer is responsible for the engineering plans and specifications of a building unless the work is exempt.

Defines "engineering plans and specifications" and "architectural plans and specifications."

Provides that the preparation of engineering plans and specifications and of architectural plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

- site plans depicting the location and orientation of a building on the site based on a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;
- the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in plan views, cross-sections depicting building components from a hypothetical cut line through a building, and the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;
- life safety plans and sheets, including accessibility ramps and related code analyses; and
- roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

Authorizes the following activities to be performed by either an engineer or an architect:

- programming for construction projects, including identification of economic, legal, and natural constraints; and determination for the scope of functional elements;
- recommending and overseeing appropriate construction project delivery systems;
- consulting with regard to, investing, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and
- providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

Requires TBAE to allow a graduate student engineer enrolled in an accredited architectural professional degree program in this state to enroll concurrently in the intern development program required by TBAE rules before an applicant may take the examination.

Requires TBAE to maintain a list of engineers licensed under Chapter 1001 (Engineers) who are authorized to engage in the practice of architecture based on an administrative finding of experience and requires TBAE to post the list on TBAE's Internet website.

Prohibits an engineer from engaging or offering to engage in the practice of architecture unless the engineer is listed as an engineer authorized to engage in the practice of architecture by TBAE and the engineer is in good standing with the Texas Board of Professional Engineers (TBPE).

Requires TBAE to list each engineer who applies for placement on the list not later than January 1, 2012; was licensed to practice engineering before January 1, 2011; and provides to TBAE documentation of at least three projects that were prepared by the engineer, were adequately and safely built before January 1, 2011, and are described as architectural plans or specifications that may be prepared only by an architect or were not exempt.

Authorizes the engineer, if the board declines to list an engineer who applies to engage in the practice of architecture to request a contested case hearing to be conducted under Chapter 2001 (Administrative Procedure), Government Code and requires that the motion for rehearing required by Chapter 2001, Government Code, be filed with the State Office of Administrative Hearings.

Provides that TBPE has exclusive regulatory oversight over an engineer listed as an engineer authorized to engage in the practice of architecture.

Does not prohibit an owner of a building from contracting with an architect or engineer as the prime design professional for a building construction, alteration, or addition project.

Provides that designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice.

Requires TBPE and TBAE to establish a joint task force of members of each board and license and registration holders regulated by each board to make recommendations to the boards regarding whether certain activities should be within the scope of practice of architecture or engineering, or both.

Repeals Section 1001.216 (Joint Advisory Committee on the Practice of Engineering and Architecture), Occupations Code, and Section 1051.212 (Joint Advisory Committee on the Practices of Engineering Architecture, and Landscape Architecture), Occupations Code.

Texas Appraiser Licensing and Certification Board—H.B. 2375

by Representative Hamilton—Senate Sponsor: Senator Carona

Several issues pertaining to the administration of the Texas Appraiser Licensing and Certification Act have arisen. H.B. 2375 addresses administrative issues of TALCB by requiring licensees to maintain a current phone number and primary email address and giving TALCB the authority to delegate authority to the commissioner of TALCB to sign agreed orders. TALCB licenses, certifies, and regulates real estate appraisers in Texas and safeguards the public interest by protecting consumers of real estate services. TALCB oversees providers of real estate brokerage, appraisal, inspection, home warranty, and timeshare interest services. TALCB ensures the availability of qualified and ethical service providers through education, licensing, and regulation, which facilitates economic growth and opportunity in Texas. This bill:

Provides that Chapter 1103 (Real Estate Appraisers), Occupations Code, does not prohibit a person authorized by law to do so from performing an evaluation of real property for or providing an evaluation of real property to another person; or a real estate broker licensed under Chapter 1101 (Real Estate Brokers and Salespersons) or a salesperson acting under the authority of a sponsoring broker from providing to another person a written analysis, opinion, or conclusion relating to the estimated price of real property if the analysis, opinion, or conclusion is not referred to as an appraisal, is given in the ordinary course of the broker's or salesperson's business, and is related to the actual or potential acquisition, disposition, encumbrance, or management of an interest in real property.

Authorizes TALCB to delegate to the commissioner of TALCB (commissioner) the responsibility for administering Chapter 1103, including the approval of consent orders and agreements.

Authorizes TALCB to adopt certain rules, including rules relating to procedures for the timely renewal of a certificate, license, or trainee approval.

Authorizes TALCB to solicit, accept, and administer gifts, grants, and donations of any kind from any public or private source for the purposes of Chapter 1103.

Authorizes a TALCB member, notwithstanding Section 572.051 (Standards of Conduct; State Agency Ethics Policy), Government Code, to testify as an expert witness in an action concerning a violation of the Uniform Standards of Professional Appraisal Practice.

Prohibits a person 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.

Prohibits a person, unless the person holds the appropriate license or certification, from using the title "state-certified real estate appraiser" or "state-licensed real estate appraiser," or from referring to an appraisal performed by the person as a "certified appraisal" or "licensed appraisal."

Requires an applicant for a license or certificate issued Chapter 1103 to provide TALCB with the applicant's current mailing address, telephone number, and e-mail address, if available.

Requires that the method to verify the evidence of appraisal experience submitted by an applicant for a certificate or license include the review of appraisal experience of all applicants for certification and rely on appropriate sampling techniques that are applied to not more than five percent of the license applications received by TALCB.

Requires, rather than authorizes, TALCB to issue a reciprocal certificate or license to an applicant from another state if the appraiser licensing and certification program of the other state is in compliance with 12 U.S.C. Section 3331 et seq., the appraiser holds a valid license or certificate from a state whose requirements for licensure or certification meet or exceed the licensure or certification requirements of this state, and the appraiser satisfies TALCB as to the appraiser's honesty, trustworthiness, and integrity.

Authorizes TALCB to issue a probationary certificate or license or approve an appraiser trainee on a probationary basis and requires TALCB by rule to adopt reasonable terms for issuing a probationary certificate or license and for approval of an appraiser trainee on a probationary basis.

Requires a person who holds a probationary certificate or license or who is approved as an appraiser trainee to disclose the probationary status to all clients before accepting an assignment.

Authorizes a person whose certificate, license, or approval has been expired for 90 days or less to renew the certificate, license, or approval by paying to TALCB a fee equal to 1-1/2 times the required renewal fee.

Authorizes a person, if a certificate, license, or approval has been expired for more than 90 days but less than six months, to renew the certificate, license, or approval by paying to TALCB a fee equal to two times the required renewal fee.

Requires that a certificate, license, or approval that is renewed expire on the date that would apply had the certificate, license, or approval been timely renewed.

Prohibits a person from performing an appraisal in a federally related transaction while the person is not actively licensed or certified as an appraiser.

Prohibits a person, if a person's certificate, license, or approval has been expired six months or longer, from renewing the certificate, license, or approval.

Authorizes a person to obtain a new certificate, license, or approval by complying with the requirements and procedures for an original application.

Prohibits an applicant who fails the examination three consecutive times from applying for reexamination or submitting a new license application unless the applicant submits evidence satisfactory to TALCB that the applicant has completed additional education, as prescribed by TALCB, since the date the applicant took the last examination, rather than requiring an applicant who has not successfully completed the examination before the first anniversary of the date the applicant was initially accepted by TALCB to submit a new application and pay the required application fee.

Authorizes a person to obtain a 90-day extension of a temporary registration by completing an extension form approved by TALCB and paying any required fee and authorizes TALCB to grant only one extension for each temporary registration.

Authorizes a person to renew an approval as an appraiser trainee by paying the renewal fee established by TALCB, providing evidence satisfactory to TALCB of completion of any required continuing education, and meeting any other requirement established by TALCB.

Requires an appraiser, not later than the 10th day after the date an appraiser changes the appraiser's address, e-mail address, or telephone number, to notify TALCB of the change, and pay any required fee.

Authorizes the commissioner to send an appraiser against whom a complaint has been filed a notice of violation including a summary of the alleged violation; the recommended sanction, including the amount of any administrative penalty sought; and a conspicuous notice that the respondent has the right to a hearing to contest the alleged violation, the recommended sanction, or both.

Authorizes the person, not later than the 20th day after the date the person receives the notice, to accept the commissioner's determination, including the recommended sanction, or request in writing a hearing, to be held under Chapter 2001 (Administrative Procedure), Government Code, on the occurrence of the violation, the sanction, or both.

Requires TALCB by order, if the person accepts the commissioner's determination, or fails to respond in a timely manner to the notice, to approve the determination and order payment of the recommended penalty, impose the recommendation sanction, or both.

Prohibits a person whose certificate or license has been revoked or a person who has surrendered a certificate or license issued by TALCB from applying to TALCB for reinstatement until the second anniversary of the date of revocation or surrender.

Requires the presiding officer of TALCB to appoint a disciplinary panel consisting of three TALCB members to determine whether a person's license or certification to practice under Chapter 1103 should be temporarily suspended.

Requires the panel, if the disciplinary panel determines from the information presented to the panel that a person licensed or certified to practice under Chapter 1103 would, by the person's continued practice, constitute a continuing threat to the public welfare, to temporarily suspend the license or certification of that person.

Authorizes a license or certification to be suspended without notice or hearing on the complaint if institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension, and a hearing is held as soon as possible.

Provides that a temporary suspension automatically expires after 45 days if TALCB has not scheduled a hearing to take place within that time or if, at TALCB's request, the hearing is continued beyond the 45th day.

Authorizes TALCB to impose an administrative penalty for a violation of Chapter 1103 or a rule adopted or order issued by TALCB in an amount not to exceed \$1,500 for each violation, or \$5,000 for multiple violations in a single case.

Repeals Sections 1103.208 (Provision License for Certain Appraiser) and 1103.209(b) (relating to prohibiting TALCB from accepting an application from an applicant from another state that refuses to offer reciprocal treatment), Occupations Code.

Regulation of Plumbing—H.B. 2376

by Representative Hamilton—Senate Sponsor: Senator Jackson

Current law allows a party involved in litigation to concurrently request that the Texas State Board of Plumbing Examiners (TSBPE) investigate a complaint that is the subject matter of the litigation. This bill:

Redefines "responsible master plumber" and "water supply protection specialist."

Prohibits TSBPE, unless a threat to health or safety exists, from investigating a complaint 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 TSBPE determines the complaint process is being abused.

Prohibits a person from designing a multipurpose residential fire protection sprinkler system for installation unless the person is licensed as a master plumber and holds an endorsement.

Provides that, notwithstanding any other law, a master plumber who holds an endorsement is not required to hold a license or registration issued by another state agency in order to design a multipurpose residential fire protection sprinkler system for installation.

Requires the master plumber, before the master plumber works as a responsible master plumber, to provide TSBPE with a certificate of insurance that meets certain requirements; and present evidence satisfactory to TSBPE of successful completion of a training program approved or administered by TSBPE regarding the laws and rules applicable to the operation of a plumbing business in this state.

Requires a political subdivision that requires a responsible master plumber or an agent of a responsible master plumber to obtain a permit before performing plumbing in the political subdivision to verify through the board's

Internet website, or by contacting TSBPE by telephone, that the responsible master plumber has on file with TSBPE a certificate of insurance.

Requires that the certificate of insurance be written by an insurer authorized to engage in the business of insurance in this state or an eligible surplus line insurer, provide for commercial general liability insurance for the responsible master plumber for a claim for property damage or bodily injury, regardless of whether the claim arises from negligence or on a contract; and provide coverage of not less than \$300,000 for all claims arising in a one-year period.

Regulation of Title Insurance Industry—H.B. 2408

by Representatives Darby and Pena—Senate Sponsor: Senator Harris

H.B. 2408 addresses matters relating to administrative procedures for title insurance hearings, licensing, and enforcement and current law relating to title insurance coverage for minerals and surface damage resulting from mineral extraction and development. This bill:

Authorizes the Texas Department of Insurance (TDI) to accept gifts, grants, and donations to enable employees of TDI to participate in educational events, and for other educational purposes, related to title insurance and authorizes the commissioner of insurance to adopt rules related to the acceptance of gifts, grants, and donations.

Provides that nothing in Subchapter A (Prohibited Conduct in General) prohibits a title insurance company or a title insurance agent from engaging in promotional and educational activities that are not conditioned on the referral of title insurance business and not prohibited by Subchapter B (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined), Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices), Insurance Code; or providing continuing education courses at market rates, regardless of whether participants receive credit hours.

Requires TDI to, not later than the 20th business day after the date TDI receives:

- a renewal application, a license application or a license renewal, notify the applicant or license holder in writing of any deficiencies in the application that render the application incomplete; or
- a notice of appointment, notify the title insurance agent and appointing title insurance company in writing of any deficiencies in the notice that render the notice incomplete.

Requires TDI to, not later than the fifth business day after:

- the date the application is complete, notify the applicant or license holder in writing of the date that the license application or license renewal application is complete; or
- the notice of appointment is complete, notify the title insurance agent and appointing title insurance company in writing of the date that the notice is complete.

Provides that a renewal application is automatically approved on the 30th business day after the date the renewal application is complete, unless on or before that date TDI notifies the applicant or license holder in writing of the factual grounds on which TDI proposes to deny the license.

Provides that the appointment is effective on the eighth business day following the date the notice of appointment is complete and TDI receives the fee, unless TDI proposes to reject the appointment.

Requires TDI, if TDI proposes to reject the appointment, to notify the title insurance agent and the appointing title insurance company in writing of the factual grounds on which TDI proposes to reject the appointment not later than the seventh business day after the date on which the notice of appointment is complete.

Authorizes TDI to provide a required notice by e-mail.

Prohibits TDI, except as provided of this bill, from rejecting, delaying, or denying a notice of appointment based wholly or partly on a pending TDI audit or complaint investigation or a pending disciplinary action against a title insurance agent or appointing title insurance company that has not been finally closed or resolved by a final order issued by the commissioner on or before the date on which the notice is received by TDI.

Authorizes TDI to reject a notice of appointment if TDI determines that the appointing title insurance company or the title insurance agent intentionally made a material misstatement in the notice of appointment or attempted to have the appointment approved by fraud or misrepresentation.

Authorizes TDI to delay approval of a notice of appointment if the title insurance agent or the appointing title insurance company is the subject of a criminal investigation or prosecution; or the deputy commissioner of the title division of TDI makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by the title insurance agent or appointing title insurance company.

Prohibits TDI, except as provided by this bill, from delaying or denying a license application or a license renewal based wholly or partly on a TDI audit or complaint investigation of, or disciplinary or enforcement action against, an applicant or license holder that is pending and has not been finally closed or resolved by a final order issued by the commissioner on or before the date on which the application is complete.

Authorizes TDI to deny a license application or license renewal if TDI determines that the applicant or license holder intentionally made a material misstatement in the renewal application or attempted to obtain the license renewal by fraud or misrepresentation.

Authorizes TDI to delay a license application or license renewal if the applicant or license holder is the subject of a criminal investigation or prosecution; or the deputy commissioner of the title division of TDI makes a good faith determination that there is a credible suspicion that there are ongoing acts of fraud by the applicant or license holder.

Requires TDI to notify a license holder in writing of a disciplinary or enforcement action against the license holder not later than the 30th business day after the date TDI assigns a file number to the action, except to a file or action that is the subject of a pending criminal investigation or prosecution; or about which the deputy commissioner of the title division of TDI makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.

Provides that a disciplinary or enforcement action is automatically dismissed with prejudice, unless TDI serves a notice of hearing on the license holder not later than the 60th business day after the date TDI receives a hearing request from the license holder.

Authorizes TDI to provide information about an enforcement action to each title insurance agent or direct operation with which an escrow officer has, or proposes to obtain, employment.

Provides that a title insurance company is not required to offer or provide in connection with a title insurance policy an endorsement insuring a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral if the policy includes a general exception or exclusion from coverage of a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral.

Prohibits an additional premium or other amount from being charged for an endorsement to a loan policy of title insurance if the endorsement insures against loss from damage to improvements or permanent buildings located on land that results from the future exercise of any right existing on the date of the loan policy to use the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral; expressly does not insure against loss resulting from subsidence; and was promulgated by the commissioner in calendar year 2009.

Prohibits the commissioner of insurance from requiring by rule, or through adoption of a title insurance policy or other insuring form, that a title insurance policy delivered or issued for delivery in this state insure against a loss that a person with an interest in real property sustains from the property by reason of severance of minerals from the surface estate; or provide insurance as to ownership of minerals.

Authorizes a title insurance company, subject to the underwriting standards of the title insurance company, to, in a commitment for title insurance or a title insurance policy include a general exception or a special exception, except from coverage a mineral estate or an instrument that purports to reserve or transfer all or part of a mineral estate.

Prohibits a reduction to, or credit on a premium charge for, a policy of title insurance or other insuring form from being directly or indirectly based on an exclusion of, or general or special exception to, a mineral estate in the title insurance policy.

Provides that the inclusion in a title insurance policy of a general exception or a special exception does not create title insurance coverage as to the condition or ownership of the mineral estate.

Authorizes a title insurance company or a title insurance agent aggrieved by a TDI requirement concerning the submission of information to bring a suit in a district court in Travis County alleging that the request for information is unduly burdensome; or is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the periodic hearing, and is not a request reasonably designed to lead to the discovery of that information.

Requires the commissioner of insurance to order a public hearing to consider changing a premium rate, including fixing a new premium rate, in response to a written request, of a title insurance company; an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by TDI; an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by TDI; or the office of public insurance counsel.

Requires that a public hearing be conducted by the commissioner of insurance as a contested case hearing under certain provisions of the Government Code, at the request of a title insurance company; an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by TDI; an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by TDI; or the office of public insurance counsel.

Requires the commissioner of insurance, if a hearing is not conducted as a contested case hearing, to render a decision and issue a final order not later than the 120th day after the date the commissioner receives a written request.

Sets forth provisions for timelines for a hearing that is conducted as a contested case hearing.

Prohibits a party's presentation of relevant, admissible oral testimony in a hearing from being limited.

Authorizes a party to petition a district court in Travis County to enter an order requiring the commissioner of insurance to comply with the deadlines described by this bill if the commissioner fails to meet a requirement.

Authorizes a combination of at least three associations, persons, or entities, if the commissioner of insurance fails to comply with the certain requirements, to jointly petition a district court of Travis County to adopt a rate based on the record made in the hearing before the commissioner.

Requires the court, if the record made in the hearing before the commissioner of insurance is not complete before the request for the court to adopt a premium rate, to hold an evidentiary hearing to establish a record before adopting the premium rate.

Prohibits the commissioner of insurance, after a petition has been filed, from issuing findings or an order related to the subject matter of the petition until after the date the court enters a final judgment.

Authorizes a district court to appoint a magistrate to adopt a rate.

Requires the commissioner of insurance to hold a public hearing not earlier than July 1 after the fifth anniversary of the closing of a hearing to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an association, title insurance company, title insurance agent, or member of the public admitted as a party requests to be considered or that the commissioner of insurance determines necessary to consider.

Requires a trade association whose membership is composed of at least 20 percent of the members of an industry or group represented by a trade association, an association, a person or entity, or TDI staff, to be admitted as a party to the periodic hearing.

Requires that notice of the hearing and of each item to be considered at the hearing, not later than the 60th day before the date of a hearing be sent directly to all parties to the previous hearing conducted, if the hearing was conducted as a contested case hearing; and published in the Texas Register and on TDI's Internet website.

Repeals Section 2703.205 (Phases of Biennial Hearing), Insurance Code.

Pay-to-Park or Valet Parking Services—H.B. 2468

by Representative Phillips—Senate Sponsor: Senator Seliger

Currently, some pay-to-park services and valet services do not provide the name and contact information of the owner of the service, making it difficult for a patron to contact the party responsible for the service. This bill:

Defines "pay-to-park service," "public accommodation," and "valet parking service."

Does not apply to a pay-to-park or valet parking service operated by the owner of a restaurant, cafeteria, or other facility principally engaged in selling food for consumption on the premises; or an inn, hotel, or motel; and provided exclusively to patrons of the public accommodation.

Requires that the receipt or claim ticket that an operator of a pay-to-park or valet parking service provides to a patron state the name, address, and telephone number of the owner of the pay-to-park or valet parking service.

Requires the operator, if a pay-to-park service does not provide a patron with a receipt or claim ticket, to prominently display the name, address, and telephone number of the owner of the pay-to-park service on a sign on or immediately adjacent to the payment receptacle or other device for making payment for the service.

Provides that "owner" does not include the owner of the property on which the pay-to-park or valet parking service is provided unless the service is also owned by the owner of the property.

Provides that a pay-to-park or valet parking service that violates provisions of this bill is subject to a civil penalty not to exceed \$200 for each violation.

Authorizes the attorney general or a county or district attorney to bring an action to recover a civil penalty.

Limiting Civil Liability of Persons Who Provide Medical Care for Certain Animals—H.B. 2471

by Representative Phillips—Senate Sponsor: Senator Deuell

Interested parties are concerned that state law does protect from civil action a person, an animal control agency, or an animal control agency employee who renders aid to an injured or distressed animal. This bill:

Limits the civil liability of certain persons who obtain or provide medical care and treatment for non-livestock animals in certain circumstances.

Regulation of Crafted Precious Metal Dealers—H.B. 2490

by Representative Solomons—Senate Sponsor: Senator Carona

Cash-for-gold establishments are largely unregulated. These establishments perform informal transactions with sellers, do not keep a record of items purchased, and melt down purchased precious metals almost immediately, making it very difficult for law enforcement agencies to track, investigate, and monitor whether stolen property is involved in such transactions. This bill:

Requires the Finance Commission of Texas (finance commission) to, notwithstanding any other provision of Chapter 1956 (Metal Recycling Entities), Occupations Code, administer and enforce Subchapter B (Sale of Crafted Precious Metal to Dealers), unless the context clearly requires another state agency to perform a specific duty.

Provides that Subchapter B does not apply to crafted precious metal acquired by a person licensed under Chapter 371 (Pawnshops), Finance Code, or an entity affiliated with a person licensed under Chapter 371 if the entity's recordkeeping practices satisfy the requirements of that chapter.

Authorizes the finance commission to adopt rules necessary to implement and enforce Subchapter B.

Prohibits 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.

Requires a person, to register as a dealer, to provide to the consumer credit commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer a list of each location in this state at which the person will conduct business as a dealer, and a processing fee for each location included on the list.

Requires the consumer credit commissioner to prescribe the processing fee in an amount necessary to cover the costs of administering provisions of this bill.

Authorizes a dealer to, after the December 31 deadline, amend the required registration to reflect any change in the information provided by the registration.

Requires the consumer credit commissioner to make available to the public a list of registered dealers.

Authorizes the consumer credit commissioner to prescribe the registration form.

Requires the consumer credit commissioner to monitor the operations of a dealer to ensure compliance with Chapter 1956 and receive and investigate complaints against a dealer or a person acting as a dealer.

Authorizes the consumer credit commissioner to revoke the registration of a dealer if the commissioner concludes that the dealer has violated Chapter 1956.

Provides that the dealer, if the consumer credit commissioner proposes to revoke a registration, is entitled to a hearing before the commissioner or a hearings officer who shall propose a decision to the commissioner and provides that a dealer aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held.

Authorizes the consumer credit commissioner to assess an administrative penalty not to exceed \$500 against a person for each knowing and willful violation of Chapter 1956.

Requires the dealer, for each transaction regulated by Chapter 1956, to submit a report on a preprinted and prenumbered form prescribed by the consumer credit commissioner and requires the form to include certain information.

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 place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that specifically identifies the item alleged to be stolen and subject to the hold, and informs the dealer of certain requirements.

Prohibits the dealer, on receiving the notice, from melting, defacing, altering, or disposing of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order.

Prohibits a dealer who conducts business at a temporary location for a period of less than one year from engaging in the business of buying precious metal or used items made of precious metal unless, within a 12-month period at least 30 days before the date on which each purchase is made, the dealer has filed, among other things, a copy of the registration statement and a copy of the dealer's certificate of registration with a local law enforcement agency and a copy of the dealer's certificate of registration issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

Installing an Irrigation System Without a License—H.B. 2507

by Representative Chisum—Senate Sponsor: Senator Seliger

Currently, lawn irrigation systems are being installed by people who do not have a license to do so because they can offer the service more cheaply. Unlicensed installers may contaminate the public water supply because they are not trained to prevent non-potable water and lawn irrigation pipes from flowing into the public water supply system. TCEQ punishes license holders for minor offenses, such as not properly displaying their license, but they do not sanction people for installing a system without a license. Municipal county judges will often not prosecute unlicensed irrigation installers because there is no clear punishment or sanction for the offense. This bill:

Provides that it is a Class C misdemeanor to install an irrigation system without holding a license issued by TCEQ unless exempt under Section 1903.002 (Exemptions), Occupations Code.

Regulation of Certain Motor Vehicle Auctions—H.B. 2519

by Representative Kuempel—Senate Sponsor: Senator Watson

Currently, an individual licensed as an auctioneer by the State of Texas may act as an auctioneer only for an auction company that is owned or operated by a person holding an auctioneer's license. This restriction prohibits a vehicle dealer with inventory to be liquidated from having a licensed auctioneer conduct an auction of those vehicles. This bill:

Prohibits a person who is licensed auctioneer from acting as an auctioneer for an entity unless the entity is an auction company owned or operated by a person who is a licensed auctioneer; or the entity holds a dealer distinguishing number and the auction is for the purpose of auctioning vehicles.

Disclosure Requirements for Certain Credit Services Organizations—H.B. 2592

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

Currently, a consumer taking out certain loans using a credit services organization may not be getting adequate information about the fees the consumer will be required to pay in relation to the loans. This bill:

Adds Subchapter C-1 (Notice and Disclosure Requirements for Certain Credit Services Organizations), Chapter 393 (Credit Services Organizations), Finance Code.

Requires a credit access business to post, in a conspicuous location in an area of the business accessible to consumers and on any Internet website, including a social media site, maintained by the credit access business:

- a schedule of all fees to be charged for services performed by the credit access business in connection with deferred presentment transactions and motor vehicle certificate of title loans, as applicable;
- a notice of the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline; and
- a notice reads, "An advance of money obtained through a payday loan or auto title loan is not intended to meet long-term financial needs. A payday loan or auto title loan should only be used to meet immediate short-term cash needs. Refinancing the loan rather than paying the debt in full when due will require the payment of additional charges."

Requires a credit access business, before performing services to provide to a consumer a disclosure adopted by rule of the finance commission that discloses the following in a form prescribed by the finance commission:

- the interest, fees, and annual percentage rates, as applicable, to be charged on a deferred presentment transaction or on a motor vehicle title loan, as applicable, in comparison to interest, fees, and annual percentage rates to be charged on other alternative forms of consumer debt;
- the amount of accumulated fees a consumer would incur by renewing or refinancing a deferred presentment transaction or motor vehicle title loan that remains outstanding for a period of two weeks, one month, two months, and three months; and
- information regarding the typical pattern of repayment of deferred presentment transactions and motor vehicle title loans.

Requires a credit access business, if the credit access business obtains or assists a consumer in obtaining a motor vehicle title loan, to provide to the consumer a notice warning the consumer that in the event of default the consumer may be required to surrender possession of the motor vehicle to the lender or other person to satisfy the consumer's outstanding obligations under the loan.

Authorizes the consumer credit commissioner, in accordance with rules adopted by the finance commission, to assess an administrative penalty against a credit access business that knowingly and willfully violates Subchapter C-1 or a rule adopted under Subchapter C-1 in the manner provided by Subchapter F (Administrative Penalty; Restitution Order; Assurance of Voluntary Compliance), Chapter 14 (Consumer Credit Commissioner).

Licensing and Regulation of Certain Credit Services Organizations—H.B. 2594

by Representative Truitt et al.—Senate Sponsors: Senators Carona and Van de Putte

Payday or auto title lenders currently operate outside the scope of the regulatory authority of the Office of Consumer Credit Commissioner (OCCC). Concerns have been raised regarding whether existing consumer protections for payday or automobile title borrowers are being adequately enforced and whether current law provides effective mechanisms to address consumer complaints and consumer harm. This bill:

Requires that a contract with a credit access business for the performance of services, in addition to other requirements:

- contain a statement that there is no prepayment penalty;
- contain a statement that a credit access business must comply with Chapter 392 (Debt Collection) and the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an extension of consumer credit;
- contain a statement that a person may not threaten or pursue criminal charges against a consumer related to a check or other debit authorization provided by the consumer as security for a transaction in the absence of forgery, fraud, theft, or other criminal conduct;
- contain a statement that a credit access business must comply, to the extent applicable, with 10 U.S.C. Section 987 and any regulations adopted under that law with respect to an extension of consumer credit;
- disclose to the consumer the lender from whom the extension of consumer credit is obtained, the interest paid or to be paid to the lender, and the specific fees that will be paid to the credit access business for the business's services; and
- include the name and address of the OCCC and the telephone number of the OCCC's consumer helpline.

Adds Subchapter G (Licensing and Regulation of Certain Credit Services Organizations), Chapter 393 (Credit Services Organizations), Finance Code, and requires OCCC to administer Subchapter G.

Provides that Subchapter G applies only to 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.

Authorizes a credit access business to assess fees for its services as agreed to between the parties and authorizes a credit access business fee to be calculated daily, biweekly, monthly, or on another periodic basis.

Provides that a credit access business is permitted to charge amounts allowed by other laws, as applicable.

Prohibits a fee from being charged unless it is disclosed.

Prohibits a person from using a device, subterfuge, or pretense to evade the application of Subchapter G and provides that a lawful transaction governed under another statute, including Title 1 (Uniform Commercial Code), Business & Commerce Code, does not violate this subsection and is prohibited from being considered a device, subterfuge, or pretense to evade the application of Subchapter G.

Requires a credit services organization to obtain a license for each location at which the organization operates as a credit access business in performing services

Sets forth requirements for an application for a license under Subchapter G, including investigation of an application, approval or denial of an application, and disposition of fees on denial of an application.

Requires an applicant for a license under Subchapter G, if the consumer credit commissioner requires, to file with the application a bond that is in an amount satisfactory to the commissioner and that meets certain requirements.

Requires that a license issued under Subchapter G state the name of the license holder; and the address of OCCC from which the business is to be conducted.

Prohibits a license holder from conducting business at a location other than the address stated on the license, except that a license holder is not required to have an office in this state; and is authorized to operate using e-commerce methods, including the Internet.

Requires a license holder to display a license at the place of business provided on the license and authorizes this requirement, with respect to business conducted through the Internet, to be satisfied by displaying the license on the business's Internet website.

Requires a license holder to maintain net assets used or readily available for use in conducting the business of each of the offices for which a license is held under Subchapter G, in an amount that is not less than the lesser of \$25,000 for each office or \$2,500,000 in the aggregate.

Sets forth provisions for licenses issued under Subchapter G, including the annual license fee, expiration of license on failure to pay annual fee, license suspension or revocation, reinstatement of suspended license and the issuance of a new license after revocation, the surrender of a license, moving of an office, and the transfer of assignment of license.

Authorizes the finance commission to adopt rules necessary to enforce and administer Subchapter G; adopt rules with respect to the quarterly reporting by a credit access business licensed under Subchapter G of summary business information relating to extensions of consumer credit; and adopt rules with respect to periodic examination by the office relating to extensions of consumer credit, including rules related to charges for defraying the reasonable cost of conducting the examinations.

Authorizes the finance commission to adopt rules under this section to allow the commissioner to review, as part of a periodic examination, any relevant contracts between the credit access business and the third-party lender organizations with which the credit access business contracts to provide services or from which the business arranges extensions of consumer credit.

Provides that nothing in certain sections of this bill grants authority to the finance commission or OCCC to establish a limit on the fees charged by a credit access business.

Prohibits a credit access business or a representative of the business from providing or advertising the services of the business if the business is not licensed under Subchapter G.

Prohibits a credit access business from advertising on the premises of a nursing facility, assisted living facility, group home, intermediate care facility for persons with mental retardation, or other similar facility subject to regulation by the Department of Aging and Disability Services.

Requires an extension of consumer credit that is obtained by a credit access business for a member of the United States military or a dependent of a member of the United States military or that the business assisted that person in obtaining to comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

Provides that a violation of Chapter 392 by a credit access business with respect to an extension of consumer credit constitutes a violation of Subchapter G.

Requires a credit access business to file a quarterly report with the consumer credit commissioner on a form prescribed by the commissioner that provides certain information relating to extensions of consumer credit during the preceding quarter:

Requires each credit access business or license holder, as part of the licensing fee and procedures, to pay to the consumer credit commissioner an annual assessment to improve consumer credit, financial education, and asset-building opportunities in this state.

Requires the consumer credit commissioner to remit to the comptroller amounts received for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company.

Requires the Texas Financial Education Endowment to be administered by the finance commission to support statewide financial education and consumer credit building activities and programs.

Requires the consumer credit commissioner to enforce Chapter 393 with respect to a credit access business.

Requires the finance commission to establish reasonable and necessary fees for carrying out the consumer credit commissioner's powers and duties under Chapter 393 with respect to a credit access business.

Requires the finance commission by rule to set the fees for licensing and examination under Chapter 393 with respect to a credit access business.

Provides that certain investigative and enforcement activity applies only Chapter 393 with respect to credit access business.

Requires the consumer credit commissioner to assess an administrative penalty against a credit access business that knowingly and willfully violates or causes a violation of Chapter 393, or a rule adopted under Chapter 393.

Authorizes the consumer credit commissioner to order a credit access business that violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393, to make restitution to an identifiable person injured by the violation.

Authorizes the consumer credit commissioner to accept assurance of voluntary compliance from a person who is engaging in or has engaged in an act or practice in violation of Chapter 393, if the person is a credit access business.

Provides that an assurance of voluntary compliance is not an admission of a violation of Chapter 393 with respect to a credit access business.

Provides that unless an assurance of voluntary compliance is rescinded by agreement or voided by a court for good cause, a subsequent failure to comply with the assurance is prima facie evidence of a violation of Chapter 393 with respect to a credit access business.

Certain Health, Safety, and Professional Regulation—H.B. 2643

by Representative Hamilton—Senate Sponsor: Senator Watson

H.B. 2643 addresses certain health, safety, and professional regulation, including the establishment and operation of certain perpetual care cemeteries; safety standards for elevators, escalators, and related equipment; and the licensing and regulation of air conditioning and refrigeration contractors and technicians. This bill:

Provides that provisions that prohibit an individual, corporation, partnership, firm, trust, or association from establishing or operating a cemetery do not apply in certain situations, including the establishment and operation, if authorized, of a perpetual care cemetery by an organized religious society or sect that:

- is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;
- has been in existence for at least five years;
- has at least \$500,000 in assets; and
- establishes and operates the cemetery on land that is owned by the society or sect, together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres, and is in 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.

Authorizes the governing body of a municipality with a population of less than 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 of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Requires TCLR by rule to provide for:

- general liability insurance as a condition of contractor registration with coverage of not less than \$1 million for each single occurrence of bodily injury or death; and \$500,000 for each single occurrence of property damage;
- the submission and review of proposed plans for installation or alteration of equipment; and
- continuing education requirements for renewal of contractor registration.

Authorizes the executive director of TDLR to charge a reasonable fee as set by TCLR for, among other things, submitting for review plans for the installation or alteration of equipment; reviewing and approving continuing education providers and courses for renewal of contractor registration; applying for a waiver, variance, or delay; and attending a continuing education program sponsored by TDLR for registered QEI-1 inspectors.

Requires a contractor to submit an application for registration or renewal of registration, as applicable, and pay appropriate fees to TDLR.

Requires each contractor who registers with TDLR to designate at least one but not more than two responsible parties and sets forth requirements for the responsible party.

Requires TCLR to adopt rules regarding documentation of the required training and completion of the continuing education to accompany the application for registration.

Authorizes a responsible party to be added to or removed from the registration at any time by providing written notice to TDLR.

Requires each contractor's responsible party to complete continuing education requirements set by TCLR rule before the contractor may renew the contractor's registration.

Requires a provider of continuing education to register with TDLR; and comply with rules adopted by TCLR relating to continuing education for a designated responsible party.

Requires TCLR to adopt rules providing for the licensing and registration of air conditioning and refrigeration contractors, including requirements for the issuance and renewal of a contractor license and a technician registration; establishing fees necessary for the administration of air conditioning and refrigeration contractors, including fees for issuance and renewal of a contractor license and a technician registration; and implementing the requirements applicable to persons, entities, and activities regulated as air conditioning and refrigeration contractors.

Requires that each appointed advisory board member, except for the public member, be experienced in the design, installation, construction, maintenance, service, repair, or modification of equipment used for environmental air conditioning, commercial refrigeration, or process cooling or heating and requires the appointed members, other than the public member, to meet certain conditions.

Prohibits a person from engaging in air conditioning and refrigeration contracting unless the person holds an air conditioning and refrigeration contractor license.

Authorizes a person holding an air conditioning and refrigeration contractor license to assign that license to only one permanent office of one air conditioning and refrigeration contracting company.

Requires an applicant for air conditioning and refrigeration contractor license to be at least 18 years old; and have at least 48 months of practical experience in air conditioning and refrigeration-related work under the supervision of a licensed air conditioning and refrigeration contractor in the preceding 72 months.

Provides that verified military service in which the person was trained in or performed air conditioning and refrigeration-related work as part of the person's military occupational specialty; and experience performing air conditioning and refrigeration-related work or while employed by a governmental entity qualifies as practical experience for purposes of satisfying the 48-month requirement.

Authorizes an applicant who has equivalent experience in another state or who held an equivalent license in another state may receive credit for the experience as determined by the executive director of TDLR (executive director)

Authorizes an applicant who obtains a degree or diploma or completes a certification program from an institution of higher education that holds a certificate of authority issued by the Texas Higher Education Coordinating Board, or an equivalent governing body in another state as approved by the executive director, to satisfy a certain portion of the practical experience requirement.

Provides that every 2,000 hours of on-the-job training in an apprenticeship program is equivalent to 12 months of practical experience.

Requires TDLR to issue an air conditioning and refrigeration contractor license to an applicant who submits a verified application; passes the applicable examination; meets the requirements; pays the required fees; and provides evidence of insurance coverage required by rule.

Provides that a person commits an offense if the person knowingly engages in air conditioning and refrigeration maintenance work without holding a contractor license or technician registration.

Provides that an air conditioning and refrigeration technician registration is valid throughout the state.

Provides that a person is not required to obtain an air conditioning and refrigeration technician registration if the person only assists a licensed contractor in performing the total replacement of a system; or the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted under the Health and Safety Code.

Provides that an applicant for air conditioning and refrigeration technician registration must be at least 18 years old and that an applicant for air conditioning and refrigeration technician registration is not required to have practical experience or to take an examination to obtain the registration.

Requires an applicant for an air conditioning and refrigeration technician registration to submit a verified application on a form prescribed by the executive director and requires the completed application to be accompanied by the required fees.

Requires TDLR to issue an air conditioning and refrigeration technician registration to an applicant who submits a verified application; meets the requirements; and pays the required fees.

Provides that an air conditioning and refrigeration technician registration is valid for one year from the date of issuance.

Prohibits an air conditioning and refrigeration technician from performing, offering to perform, or attempting to perform an act that is:

- defined as the practice of engineering under Chapter 1001 (Engineers), unless the person holds a license under that chapter;
- regulated under Chapter 113 (Liquefied Petroleum Gas), Natural Resources Code, unless the person holds a license under that chapter or is exempt by a rule adopt under that chapter; or
- defined as plumbing under Chapter 1301 (Plumbers);

Prohibits an air conditioning and refrigeration technician from assisting a person who is not a licensed air conditioning and refrigeration contractor in the performance of air conditioning and refrigeration maintenance work.

Insurance Adjuster License Requirements—H.B. 2699

by Representative Eiland—Senate Sponsor: Senator Carona

Certain insurers provide portable consumer electronics insurance coverage to policyholders who purchase portable electronic devices and related services. When the insured calls the insurer to report the claim, a customer service representative (CSR) inputs the customer's information in a database to make sure that the device that was stolen/damaged is covered, then sends the insured a new device. If a discrepancy arises, the CSR transfers the phone call to a licensed insurance adjuster/supervisor. Under the current statutory language, the CSR can technically also be considered an adjuster and therefore would need to be licensed as such. This bill:

Redefines "adjuster" and defines "automated claims adjudication system," "business entity," "home state," and "person."

Provides that Chapter 4101(Insurance Adjusters), Insurance Code does not apply to an individual who collects claim information from, or furnishes claim information to, an insured or claimant and enters data into an automated claims adjudication system; and is employed by a licensed independent adjuster or its affiliate under circumstances in which no more than 25 individuals performing certain duties are supervised by a single licensed independent adjuster or a single licensed agent.

Provides that a licensed agent acting as a supervisor under the previous section is not required to be licensed as an adjuster.

Requires a business entity, to qualify for a license under Chapter 4101, to comply with Chapter 4101; and present evidence satisfactory to the Texas Department of Insurance that the applicant is eligible to designate this state as its home state; is trustworthy; has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws of this state; has not committed an act that is ground for probation, suspension, revocation, or refusal of an adjuster's license; and has paid the prescribed fees.

Prohibits an individual who is a resident of Canada from being licensed under Chapter 4101 or designating this state as the individual's home state unless the individual has successfully passed the adjuster examination and complied with the other applicable portions of statute, with certain exceptions.

Refusal of Alcoholic Beverage Licenses and Permits—H.B. 2707

by Representative Burnam et al.—Senate Sponsor: Senator Davis

Currently, TABC or a county judge may refuse to issue or renew certain alcoholic beverage permits and licenses if substantial evidence exists that the manner in which the applicant or licensee conducts business does not benefit the general welfare, health, peace, morals, and safety of the local community. Legislation is needed to require TABC or a county judge to refuse to issue or renew certain licenses or permits authorizing on-premises consumption of alcoholic beverages if a license or permit was canceled or not renewed as a result of a violent act. This bill:

Requires TABC or the administrator, with or without a hearing, or the county judge to refuse to issue or approve an original or renewal permit or an original or renewal license authorizing on-premises consumption of alcoholic beverages, if TABC, the administrator, or the county judge has reasonable grounds to believe and finds that, during the three years preceding the date the permit application was filed, a license or permit previously held under the Alcoholic Beverage Code by the applicant, a person who owns the premises for which the permit or license is sought, or an officer of a person who owns the premises for which the permit or license is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

Provides that provisions of this bill do not apply to the issuance of an original or renewal permit or the issuance of an original or renewal license authorizing on-premises consumption for a location that also holds a food and beverage certificate but does not hold a late hours permit.

License for Eyelash Extension Application—H.B. 2727

by Representative Thompson—Senate Sponsor: Senator Whitmire

Eyelash extensions are a relatively new method of enhancing the length and thickness of eyelashes whereby semi-permanent, single fiber, thread-like materials are bonded to each natural lash. The application of lash extensions is a meticulous process requiring education in the science behind the procedure, safety training, and hands-on training to ensure safe application. However, training for cosmetologists and facialists does not include any specific training in the application of eyelash extensions. This bill:

Redefines cosmetology to mean the practice of performing or offering to perform for compensation services, including applying semi-permanent, thread-like extensions composed of single fibers to a person's eyelashes.

Authorizes a person holding a specialty license in eyelash extension application to perform only the practice of cosmetology as redefined by this bill.

Requires an applicant, to be eligible for a specialty license in eyelash extension application, to be at least 17 years of age; have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and have completed a training program that has been approved by TCLR.

Requires that an eyelash extension application training program include at least 320 hours of classroom instruction and practical experience, including at least eight hours of theoretical instruction, and include instruction in recognizing infectious or contagious diseases of the eye and allergic reactions to materials; proper sanitation practices; occupational health and safety practices; eyelash extension application procedures; and eyelash extension isolation and separation procedures.

Requires an instructor at an eyelash extension application training program to comply with provisions relating to prohibiting a person from teaching cosmetology unless the person holds an instructor license or performs the instruction in a private beauty culture school.

Requires TCLR to adopt rules regarding eyelash extension application training programs and authorizes TCLR establish or designate approved training programs.

Entitles an applicant for an operator license, instructor license, manicurist specialty license, facialist specialty license, or specialty license in eyelash extension application to the license if the applicant meets certain conditions.

Authorizes a person holding a private beauty culture school license to maintain an establishment in which any practice of cosmetology is taught, including providing an eyelash extension application training program.

Requires that an application for a private beauty culture school license be accompanied by the required license fee and inspection fee and, among other things, contain a statement that the building:

- is of permanent construction and is divided into at least two separate areas: one area for instruction in theory, and one area for clinic work;
- contains a minimum of 2,000 square feet, rather than 3,500 square feet, of floor space if the building is located in a municipality with a population of more than 50,000, or 1,000 square feet of floor space if the building is located in a municipality with a population of 50,000 or less;
- has access to permanent restrooms and adequate drinking fountain facilities, rather than has separate restrooms for male and female students; and
- contains, or will contain before classes begin, the equipment established by TCLR rule as sufficient to properly instruct a minimum of 10 students, rather than a minimum 50 students.

Requires TDLR to issue a specialty license in eyelash extension application under the Occupations Code to an applicant who meets certain conditions.

Operation and Regulation of Charitable Bingo—H.B. 2728

by Representatives Thompson and Guillen—Senate Sponsor: Senator Van de Putte

Charitable bingo has been legal in Texas for some time but issues relating to temporary licenses for bingo occasions and transfers of licenses are not clearly addressed in statute. This bill:

Defines a "crime of moral turpitude" as a felony, a gambling offense, criminal fraud, forgery, theft, an offense that involves knowingly filing false information with a governmental agency, or any Class A misdemeanor defined by another state law as a crime of moral turpitude.

Provides that on approval by the Texas Lottery Commission (lottery commission), a licensed commercial lessor may transfer a commercial lessor license if the person to whom the license will be transferred otherwise meets the requirements for licensing.

Allows a licensed authorized organization that conducts bingo lawfully at premises under a license, unless the lottery commission revokes or suspends the license, to continue conducting bingo at the premises after the death or incapacity of the commercial lessor license holder.

Authorizes a district court or the lottery commission, on the showing by the lottery commission of a cause that would be sufficient for the lottery commission to revoke or suspend a license, to temporarily or permanently enjoin the conduct of bingo at the licensed premises.

Business of Structural Pest Control—H.B. 2742

by Representative Kleinschmidt—Senate Sponsor: Senator Estes

Under current law, a person in the "business of structural pest control" may not operate without a structural pest control business license. A license holder is required to follow certain environmental, insurance, and advertising regulations and is subject to regular inspections. Current law fails to account for those businesses that may be advertising for pest control services or offering those services for compensation. As a result, TDA is prohibited from citing unlicensed businesses that go unregulated in the pest control industry unless the business is caught in the act of performing pest control services. This bill:

Provides that a person is engaged in the "business of structural pest control" if the person performs, offers to perform, or advertises for or solicits the person's performance of certain pest control services including services performed as a part of the person's employment. Such services include identifying infestations or making inspections for pests and undesirable animals; making inspection reports, recommendations, estimates, or bids with respect to an infestation; or making contracts, or submitting bids based on an inspection for services or performing services designed to prevent, control, or eliminate an infestation by the use of insecticides, pesticides, rodenticides, fumigants, allied chemicals or substances, or mechanical devices.

Regulation of Talent Agencies and Personnel Services—H.B. 3167

by Representative Callegari—Senate Sponsor: Senator Carona

Talent agencies were originally regulated to protect theatrical actors from fraudulent agents who would take clients' money and pledge to provide representation, only to disappear. As applied, however, the regulations for talent agencies are readily circumvented. Although there are approximately 60 registered talent agencies in Texas, widespread activity by unregulated parties that offer similar services render the consumer protections intended by the regulation meaningless. Similarly, regulation of personnel employment services, where companies attempt to find permanent jobs for persons looking for work, no longer provides a meaningful public benefit. These services were first regulated in the 1970s when people used such services to find work. With the advent of the Internet, and other employment search methods, the use of personnel employment services has declined. With the decline in this mode of business, the need for state regulation of personnel employment services has dissipated. This bill:

Repeals Chapter 2105 (Regulation of Talent Agencies), Occupations Code; Sections 2501.001(2) (defining "commission"), (3-a) (defining "department"), and (4-a) (defining "executive director"), Occupations Code; Section 2501.201(c) (relating to damages recoverable in an action under this section), Occupations Code; Section 2501.253 (Administrative Penalty), Occupations Code; and Subchapters B (Certificate of Authority) and D (Enforcement), Chapter 2501 (Personal Services), Occupations Code.

Requires TDLR to return to a person who holds a valid registration under Chapter 2105, Occupations Code, or a valid certificate of authority under Chapter 2501, Occupations Code, as that chapter existed immediately before the effective date of this bill, a prorated portion of the fee paid to TDLR for the issuance or renewal of the registration.

Requires TDLR to return to a person who holds a valid certificate of authority under Chapter 2501, Occupations Code, as that chapter existed immediately before the effective date of this Act, a prorated portion of the fee paid to TDLR for the issuance or renewal of the certificate of authority.

Provides that an action pending on the effective date of this bill related to a violation of Section 2501.102 (Imposition of Fee Prohibited Before Employment Offer Accepted), Occupations Code, is dismissed.

Authorizes an administrative penalty assessed by TDLR related to a violation of Chapter 2501, Occupations Code, as that chapter existed immediately before the effective date of this bill, to be collected as provided by Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code.

License Renewals by the Texas Department of Licensing and Regulation—H.B. 3287

by Representative Giddings—Senate Sponsor: Senator Carona

TDLR administers 29 statutes, with 142 license types, and over 620,000 licensees. Under current law, a licensee who does not renew a license within one year of expiration must retake the licensing examination. This bill:

Authorizes a person whose license has been expired for more than 90 days, but less than 18 months, to renew the license by paying to TDLR a renewal fee that is equal to two times the normally required renewal fee.

Authorizes 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 equal to two times the normally required renewal fee.

Prohibits a person whose license has been expired for 18 months or more, except as provided by provisions of this bill, from renewing the license.

Regulations Concerning Service Animals—H.B. 3487

by Representative Van Taylor—Senate Sponsor: Senator Carona

Search and rescue teams frequently face out-of-pocket expenses for travel and hotel fees associated with boarding their dogs when called into service. This bill:

Adds Chapter 106 (Certain Charges or Security Deposits for Canine Handlers Prohibited), Business & Commerce Code.

Prohibits a commercial lodging establishment or restaurant from requiring the payment of an extra fee or charge or a security deposit 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 under the authority or direction of a law enforcement agency or search and rescue agency; and
- the individual is away from the individual's home jurisdiction while in the course and scope of duty because of a declared disaster or mutual aid request or mutual aid training.

Provides that governmental immunity from suit and from liability is waived and the department or agency of a canine unit may be held liable to the owner or operator of a commercial lodging establishment or restaurant for any damages to the premises caused by the service canine.

Provides that the handler of a search and rescue canine is liable to the owner or operator of a commercial lodging establishment or restaurant for any damages to the premises caused by the service canine.

Provides that the owner or operator of a commercial lodging establishment or restaurant that violates provisions of this bill is liable for a civil penalty in an amount not to exceed \$200 for each violation.

Regulation of Residential Mortgage Loan Servicers—S.B. 17

by Senators Carona and Davis—House Sponsor: Representative Truitt

Texas does not currently regulate mortgage servicing activities, although 17 states and the District of Columbia regulate servicers of residential loans, and six states regulate servicers of commercial loans. Mortgage servicers are companies that interface directly with borrowers on behalf of a lender. The majority of mortgage servicing is conducted by banks, savings banks, credit unions, or their subsidiaries and, in Texas, a few large national banks and their subsidiaries perform the vast majority of mortgage servicing. Although the federal government regulates those bank operations that relate to banking, such regulation does not explicitly regulate operations relating to mortgage servicing. In the wake of the 2008 recession, reports of mortgage servicing companies mishandling accounts and using inappropriate business practices have increased. Particular complaints include mortgage servicers modifying loans to increase monthly mortgage payments, failing to credit consumers for payments made, and failing to recognize existing consumer insurance policies. This bill:

Adds Chapter 158 (Residential Mortgage Loan Servicers), Finance Code.

Authorizes finance commission to adopt and enforce rules necessary for the purposes of or to ensure compliance with Chapter 158.

Requires the finance commission to consult with the savings and mortgage lending commissioner (SML commissioner) when proposing and adopting rules under Chapter 158.

Prohibits a person from acting as a residential mortgage loan servicer, directly or indirectly, for a residential mortgage loan secured by a lien on residential real estate unless the person is registered under Chapter 158 or is exempt under law.

Provides that Chapter 158 does not require registration by a federal or state depository institution, or a subsidiary or affiliate of a federal or state depository institution; a person registered as a mortgage broker; a person licensed under Chapter 342 (Consumer Loans) or regulated under Chapter 343 (Home Loans), if the person does not act as a residential mortgage loan servicer servicing first-lien secured loans; or a person making a residential mortgage loan with the person's own funds, or to secure all or a portion of the purchase price of real property sold by that person.

Provides that Chapter 158 applies only to a residential mortgage loan servicer that services at least one residential mortgage loan.

Requires a residential mortgage loan servicer, to register under Chapter 158, to file with the SML commissioner an application for registration.

Requires the applicant, at the time of making application, to pay to the SML commissioner a registration fee in an amount not to exceed \$500 as determined by the finance commission.

Provides that an applicant is not required to pay a registration fee if the applicant collects delinquent consumer debts owed on residential mortgage loans, does not own the residential mortgage loans for which the applicant acts as a residential mortgage loan servicer; and is a third-party debt collector that has filed a bond.

Requires a registrant to notify the SML commissioner of a change in any of the information provided in the registration application not later than the 30th day after the date the information changes.

Requires an applicant for registration under Chapter 158, before approval of the registration, to file with the SML commissioner, and to keep in force while the registration remains in effect, a surety bond meeting the requirements or, if a surety bond is not available to the applicant from a surety company authorized to do business in this state, other collateral of like kind as determined by the SML commissioner.

Requires the SML commissioner to approve an application for registration on the applicant's payment of the required fees and the SML commissioner's approval of the surety bond.

Requires a registrant to notify the SML commissioner in writing not later than the 10th day after filing for bankruptcy or reorganization of the registrant; the filing of a criminal indictment related in any manner to the registrant's activities; or the receipt of notification of the issuance of a final order to cease and desist, a final order of the suspension or revocation of a license or registration, or another final formal or informal regulatory action taken against the registrant in this or another state.

Requires a registrant, on or before December 31 of each year, to renew its registration for the next calendar year and to pay to the SML commissioner a renewal fee in an amount not to exceed \$500 as determined by the finance commission and requires a registrant, to renew a registration, to continue to meet all standards for registration.

Authorizes the SML commissioner to refuse to renew a registration if the registrant has failed to pay any fees or penalties imposed; has failed to provide the surety bond required; or is not in compliance with any final order of the commissioner.

Authorizes the SML commissioner, after notice and hearing, to revoke a registration if the registrant fails or refuses to comply with the SML commissioner's written request for a response to a complaint; the SML commissioner determines that the registrant has engaged in an intentional course of conduct to violate federal or state law or has engaged in an intentional course of conduct that constitutes fraudulent, deceptive, or dishonest dealings; or the registrant is not in compliance with any final order of the SML commissioner.

Requires a registrant to provide to the borrower of each residential mortgage loan a certain notice not later than the 30th day after the registrant commences servicing the loan and sets forth the language and format of the required notice.

Sets forth provisions for the investigation of complaints against a registrant under Chapter 158.

Authorizes the SML commissioner, if, after conducting an investigation, the SML commissioner determines that the registrant has violated Chapter 158 or another applicable law, to issue an order to the registrant to resolve the complaint by paying to the consumer the damages to which the consumer would be entitled under law; or order the registrant to cease and desist from the actions found to be in violation of law.

Authorizes the SML commissioner, if the SML commissioner has reasonable cause to believe that a person who is not registered or exempt under Chapter 158 has engaged, or is about to engage, in an act or practice for which registration is required under this chapter, to issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with Chapter 158.

Authorizes the SML commissioner to order a residential mortgage loan servicer to pay to a complainant any compensation received by the servicer in a violation cited by the commissioner in a final order.

Requires that a mortgage banker that services residential mortgage loans indicate in its registration that it acts as a residential mortgage loan servicer.

Requires a mortgage banker that indicates in its registration that it acts as a residential mortgage loan servicer to provide to the borrower of each residential mortgage loan it services a certain notice not later than the 30th day after the registrant commences servicing the loan; sets forth the language and format of the required notice.

Authorizes the SML commissioner or the SML commissioner's designee, to ensure that residential mortgage loan servicers and mortgage bankers that act as residential mortgage loan servicers operate in this state in compliance with statute, to participate in multi-state mortgage examinations as scheduled by the Conference of State Bank Supervisors Multi-State Mortgage Committee in accordance with the Conference of State Bank Supervisors protocol for such examinations.

Regulation of Debt Management Services Providers—S.B. 141

by Senators Eltife and Davis—House Sponsor: Representative Anchia

In 2005 and 2007, legislation was passed placing nonprofit and for-profit debt management services (including consumer credit counseling services and debt management companies) under the regulatory authority of the Office of Consumer Credit Commissioner (CCC). However, there is not a regulatory structure for similar services offered by debt settlement providers. S.B. 141 is modeled after the Uniform Debt-Management Services Act, as developed by the National Conference of Commissioners on Uniform State Laws and conforms to recent federal action pertaining to the offer of debt settlement services under the Federal Trade Commission (FTC) telemarketing sales rules. This bill:

Authorizes the consumer credit commissioner, in addition to the power to refuse an initial application, to suspend or revoke a provider's registration after notice and hearing if the consumer credit commissioner finds that any of certain conditions are met, including that the provider has received money from or on behalf of a consumer for disbursement to a creditor under a debt management plan that provides for regular periodic payments to creditors and the provider has failed to disburse money to the creditor on behalf of the consumer within a reasonable time, normally 30 days.

Requires that the surety bond or insurance policy filed by a provider meet certain conditions, including requiring that, if a bond, it be in an amount equal to the average daily balance of the provider's trust account serving Texas consumers over the six-month period preceding the issuance of the bond, or in the case of an initial application, in an amount determined by the commissioner, but not less than \$25,000 or more than \$100,000, if the provider receives and holds money paid by or on behalf of a consumer for disbursement to the consumer's creditors, or be in the amount of \$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.

Prohibits a provider from enrolling a consumer in a debt management plan unless the provider, through the services of a counselor certified by an independent accreditation organization, has taken certain actions, including if the proposed debt management plan does not provide for a reduction of principal as a concession, the provider has a reasonable expectation, provided that the consumer has provided accurate information to the provider, that each creditor of the consumer listed as a participating creditor in the plan will accept payment of the consumer's debts as provided in the initial plan, and has prepared for all creditors identified by the consumer or identified through additional investigation by the provider, a list, which must be provided to the consumer in a form the consumer may keep, of the creditors that the provider reasonably expects to participate in the plan.

Requires a provider who receives and disburses money to creditors on behalf of consumers for debt management services to provide each consumer to whom those services were provided a written report accounting for the amount of money received for the consumer since the last report, the amount and date of each disbursement made on the consumer's behalf to each creditor listed in the agreement since the last report, any amount deducted from amounts received from the consumer, and any amount held in reserve.

Requires that each debt management services agreement include certain information, including that if the proposed debt management plan does not provide for a reduction of principal as a concession, it list in the agreement or accompanying document, to the extent the information is available to the provider at the time the agreement is executed, each participating creditor of the consumer to which payments will be made and, based on information provided by the consumer, the amount owed to each creditor and the schedule of payments the consumer will be required to make to the creditor, including the amount and date on which each payment will be due.

Requires the provider, if a provider or a consumer cancels a debt management service agreement, to immediately return to the consumer any money of the consumer held in trust by the provider for the consumer's benefit, and 65 percent of any portion of the account set-up fee received that has not been credited against settlement fees.

Prohibits a provider from imposing fees or other charges on a consumer or receiving payment for debt management services until the consumer has entered into a debt management service agreement with the provider.

Prohibits a provider, if a consumer enters into a debt management service agreement with the provider, from imposing a fee or other charge for debt counseling, education services, or similar services except as otherwise authorized by this section.

Authorizes the consumer credit commissioner to authorize a provider to charge a fee based on the nature and extent of the counseling, education services, or other similar services furnished by the provider.

Authorizes the provider, if a consumer is enrolled in a debt management plan that provides for a reduction of finance charges or fees for late payment, default, or delinquency as a concession from creditors, to charge a fee not to exceed \$100 for debt consultation or education services, including obtaining a credit report, setting up an account, and other similar services; and a monthly service fee, not to exceed the lesser of \$10 multiplied by the number of accounts remaining in the plan on the day of the month the fee is assessed or \$50.

Authorizes the provider, if a consumer is enrolled in a debt management plan that provides for settlement of debts for amounts that are less than the principal amounts of the debts as a concession from creditors, to charge certain fees, as set forth in this bill.

Authorizes a provider, if a consumer does not enter into a debt management service agreement with the provider, to receive payment for debt counseling or education services provided to the consumer in an amount not to exceed \$100 or a greater amount, on approval of the commissioner.

Requires the consumer credit commissioner to compute and publish the dollar amounts of fees or other charges in amounts different from the amounts of fees or other charges specified in Section 394.210 (Permitted Fees) to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor or, if that index is not available, another index adopted by finance commission rule.

Requires the consumer credit commissioner to notify registered providers of any change in dollar amounts and make that information available to the public.

Requires a provider to use a trust account for the management of all money paid by or on behalf of a consumer and received by the provider for disbursement to the consumer's creditor.

Prohibits a provider from commingling the money in a trust account established for the benefit of consumers with any operating funds of the provider.

Provides that a provider has a duty to a consumer who receives debt management services from the provider to ensure that client money held by the provider is managed properly at all times.

Regulation of Public Grain Warehouse Operators—S.B. 248

by Senator Estes—House Sponsor: Representative Landtroop

The grain warehouse inspection program at TDA administers and enforces Texas public warehouse laws relating to grain storage. The program requires any entity that stores grain for the public to be licensed and obtain bonding before operating. Each warehouse must be insured for loss of grain stocks for the full market value of the stock and must provide proof of insurance. To provide enhanced protection for Texas grain producers, the bonding requirements for grain warehouses and securing additional enforcement authority for TDA are being increased. This bill:

Increases the minimum bond amount for a public grain warehouse from \$20,000 to \$35,000.

Increases the bond amount for grain stored in a public grain warehouse from six cents to 10 cents per bushel of storage capacity with a maximum bond amount of \$500,000.

Establishes a minimum net worth requirement of \$200,000 and establishes that TDA may suspend a license if a shortage of grain is discovered or if the warehouse operator refuses inspection.

Regulation of Law Enforcement Officers—S.B. 542

by Senator Hegar—House Sponsor: Representative Fletcher

The Occupations Code authorizes the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to adopt rules and establish minimum standards relating to competence and reliability for licensing as an officer, county jailer, or public security officer. This bill:

Clarifies language in current statutes relating to psychological and physical examinations or applicants and continuing education procedures.

References license holders, rather than peace officers, in the Occupations Code.

Requires TCLEOSE to provide adequate notice to agencies and license holders of impending noncompliance with the training requirements so that the agencies and license holders may comply within the 24-month period or 48-month period, as appropriate.

Requires police chiefs to complete the initial training and continuing education required by the Education Code.

Professions Regulated by the Texas Real Estate Commission—S.B. 747

by Senator Carona—House Sponsor: Representative Hamilton

Provisions of the Texas Occupations Code that regulate the licensing of real estate agents and brokers are in need of clean-up to address and clarify issues pertaining to licensing, broker responsibility, license application and renewal, right-of-way agents, and education providers. Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code, pertains to the licensing of real estate agents and brokers. This bill:

Redefines "broker" and defines "business entity."

Provides that Chapter 1101 does not apply to, among other persons and officials, an attorney licensed in this state, rather than an attorney licensed in any state.

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 Chapter 1101 or Chapter 1102 (Real Estate Inspectors) or 1103 (Real Estate Appraisers), Occupations Code.

Requires TREC, in establishing accreditation standards for an educational program, to adopt rules setting an examination passage rate benchmark for each category of license issued by TREC under Chapter 1101 or Chapter 1102.

Requires that the benchmark be based on the average percentage of examinees that pass the licensing exam on the first attempt.

Requires that the program meet or exceed the benchmark for each license category before TREC may renew the program's accreditation for the license category.

Authorizes TREC to deny an application for accreditation if the applicant owns or controls, or has previously owned or controlled, an educational program or course of study for which accreditation was revoked.

Prohibits a business entity, unless the business entity holds a license issued Chapter 1101 from acting as a broker.

Requires each applicant, at the time an application is submitted, to provide TREC with the applicant's current mailing address and telephone number, and e-mail address, if available, and requires the applicant to notify TREC of any change in the applicant's mailing or e-mail address or telephone number during the time the application is pending.

Requires a business entity, to be eligible for a license under Chapter 1101, to designate one of its managing officers as its agent for purposes of this chapter; and provide proof that the entity maintains errors and omissions insurance with a minimum annual limit of \$1 million for each occurrence if the designated agent owns less than 10 percent of the business entity.

Prohibits a business entity from acting as a broker unless the entity's designated agent is a licensed broker in active status and good standing according to TREC's records.

Requires a business entity that receives compensation on behalf of a license holder to be licensed as a broker.

Requires an applicant for a broker license to provide to TREC satisfactory evidence that the applicant, among other requirements, has had at least four years of active experience in this state as a license holder during the 60 months preceding the date the application is filed.

Requires an applicant for a broker license who does not satisfy the experience requirements to provide to TREC satisfactory evidence that the applicant is a licensed real estate broker in another state, has had at least four years of active experience in that state as a licensed real estate broker or salesperson during the 60 months preceding the date the application is filed, and has satisfied the education requirements, or the applicant was licensed in this state as a broker in the year preceding the date the application is filed.

Requires TREC by rule to establish what constitutes active experience.

Requires an applicant for a salesperson license to provide to TREC satisfactory evidence that the applicant has completed at least 12 semester hours, rather than 14 semester hours, or equivalent classroom hours, of postsecondary education consisting of certain courses.

Requires TREC to waive the education requirements if the applicant has been licensed in this state as a broker or salesperson within the six months preceding the date the application is filed.

Requires TREC, if an applicant for a salesperson license was licensed as a salesperson within the six months preceding the date the application is filed and the license was issued under the certain conditions, to require the applicant to provide the evidence of successful completion of education requirements that would have been required if the license had been maintained without interruption during the preceding six months.

Require an applicant to satisfy the examination requirement not later than one year after the date the license application is filed.

Authorizes a person to renew the license by paying to TREC a fee equal to two times the required renewal fee, if a license has been expired for more than 90 days but less than six months.

Prohibits a person from renewing the license if a person's license has been expired for six months or longer.

Requires a business entity, to renew a license, to designate one of its managing officers as its agent for purposes of this chapter, and provide proof that the entity maintains errors and omissions insurance with a minimum annual limit of \$1 million for each occurrence if the designated agent owns less than 10 percent of the business entity.

Prohibits a business entity from acting as a broker unless the entity's designated agent is a licensed broker in active status and good standing according to TREC's records.

Requires a broker who sponsors a salesperson, or a license holder who supervises another license holder, to attend during the term of the current license at least six classroom hours of broker responsibility education courses approved by TREC.

Requires a business entity, to be eligible to receive a certificate of registration or a renewal certificate under Chapter 1101 to designate as its agent one of its managing officers who is registered.

Requires an applicant for an original certificate of registration or renewal of a certificate of registration to comply with the criminal history record check requirements.

Requires a license holder to provide TREC with the license holder's current mailing address and telephone number, and e-mail address, if available and requires a license holder to notify TREC of a change in the license holder's mailing or e-mail address or telephone number.

Authorizes TREC to suspend or revoke an accreditation issued or take any other disciplinary action authorized by Chapter 1101 if the provider of an educational program or course of study violates Chapter 1101 or a rule adopted under Chapter 1101.

Regulation of Sport Shooting Ranges—S.B. 766

by Senator Estes et al.—House Sponsor: Representative Isaac

Texas recently allowed citizens to obtain a license to carry a concealed handgun, and required that the applicant complete certain proficiency instruction, which may be held at a shooting range. As urban and suburban growth has encroached into rural areas where shooting ranges are located, some municipalities have found such shooting ranges undesirable and responded with regulation and litigation, resulting in the closure of some shooting ranges. This bill:

Prohibits 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.

Increases the burden of proof that a private plaintiff must satisfy when suing a sport shooting range.

Regulation of Residential Mortgage Foreclosure Consulting Services—S.B. 767

by Senator Ellis—House Sponsor: Representative Alvarado

Currently, there is no formal training required for foreclosure consultants and no industry-specific regulations or guidelines exist to curb illegitimate practices and prevent vulnerable citizens from being scammed out of their homes. This bill:

Adds Chapter 21 (Regulation of Certain Residential Foreclosure Consulting Services), Business & Commerce Code.

Provides that a foreclosure action has been commenced if notice of sale has been filed under Section 51.002(b) (relating to giving notice of sale of real property under contract lien), Property Code, or a judicial foreclosure action has been commenced.

Provides that Chapter 21 does not apply to the following persons who perform foreclosure consulting services:

- an attorney admitted to practice in this state who performs those services in relation to the attorney's attorney-client relationship with a homeowner or the beneficiary of the lien being foreclosed;
- a person who holds or is owed an obligation secured by a lien on a residence in foreclosure if the person performs those services in connection with the obligation or lien;
- a mortgage servicer of an obligation secured by a lien on a residence in foreclosure if the servicer performs those services in connection with the obligation or lien;
- a person that regulates banks, trust companies, savings and loan associations, credit unions, or insurance companies under the laws of this state or the United States if the person performs those services as part of the person's normal business activities;
- an affiliate of a person if the affiliate performs those services as part of the affiliate's normal business activities;
- a judgment creditor of the homeowner of the residence in foreclosure, if the legal action giving rise to the judgment was commenced before the notice of default required under sections of the Property Code, and the judgment is recorded in the real property records of the clerk of the county where the residence in foreclosure is located;

- a licensed title insurer, title insurance agent, or escrow officer authorized to transact business in this state if the person is performing those services in conjunction with title insurance or settlement services;
- a licensed real estate broker or real estate salesperson if the person is engaging in an activity for which the person is licensed;
- a person licensed or registered under Chapter 156 (Mortgage Brokers), Finance Code, if the person is engaging in an activity for which the person is licensed or registered under that chapter;
- a person licensed or registered under Chapter 157 (Registration of Mortgage Bankers), Finance Code, if the person is engaging in an activity for which the person is licensed or registered under that chapter;
- a nonprofit organization that provides solely counseling or advice to homeowners who have a residence in foreclosure or have defaulted on their home loans, unless the organization is an associate of the foreclosure consultant;
- a depository institution subject to regulation or supervision by a state or federal regulatory agency; or
- an affiliate or subsidiary of a depository institution.

Provides that Chapter 21 applies to a person providing foreclosure consulting services to a homeowner designed or intended to transfer title, directly or indirectly, to a residence in foreclosure to that person or the person's associate, unless the person is a mortgagee or mortgage servicer that negotiates with or accepts from the mortgagor a deed in lieu of foreclosure for the benefit of the mortgagee.

Requires that each contract for the purchase of the services of a foreclosure consultant by a homeowner of a residence in foreclosure be in writing, dated, and signed by each homeowner and the foreclosure consultant.

Requires the foreclosure consultant, before entering into a contract with a homeowner of a residence in foreclosure for the purchase of the services of a foreclosure consultant, to provide the homeowner written notice and sets forth the required language and format of the written notice.

Prohibits a foreclosure consultant from:

- charging or receiving compensation until the foreclosure consultant has fully performed each service the foreclosure consultant has contracted to perform or has represented the foreclosure consultant can or will perform unless the foreclosure consultant has obtained a surety bond or established and maintained a surety account for each location at which the foreclosure consultant conducts business in the manner that the Finance Code, provides for credit services organizations; or
- receiving any consideration from a third party in connection with foreclosure consulting services provided to the homeowner of a residence in foreclosure unless the consideration is fully disclosed in writing to the homeowner.

Prohibits a foreclosure consultant from taking any power of attorney from a homeowner for any purpose other than to inspect documents; acquiring an interest, for purposes of securing payment of compensation, directly or indirectly, in the real or personal property of the homeowner of a residence in foreclosure with whom the foreclosure consultant has contracted to perform services; or taking an assignment of wages to secure payment of compensation.

Requires a foreclosure consultant to keep each record and document, including the foreclosure consultant contract, related to foreclosure consulting services performed on behalf of a homeowner.

Provides that a person commits an offense if the person violates Chapter 21 and that an offense under Chapter 21 is a Class C misdemeanor.

Regulation of the Practice of Veterinary Medicine—S.B. 811

by Senator Zaffirini—House Sponsor: Representative Hardcastle

The Veterinary Licensing Act gives the Texas State Board of Veterinary Medical Examiners (TSBVME) the authority to regulate the practice of veterinary medicine by ensuring that veterinarians are competent, meet established standards, and are held accountable for their actions. This bill:

Provides that the Veterinary Licensing Act does not apply to the performance of an act by a person who is a full-time student of an accredited college of veterinary medicine if the act is performed under the direct supervision of a veterinarian.

Authorizes TSBVME to order a veterinarian who is subject to disciplinary action on a finding that the veterinarian is impaired by chemical dependency or mental illness to submit to care, counseling, or treatment through a peer assistance program.

Requires TSBVME to conduct licensing examinations at least twice each year at a time and place TSBVME determines is convenient for applicants.

Requires TSBVME to conduct or contract with a TSBVME-approved entity to conduct the licensing examination on subjects relating to veterinary medicine.

Allows TSBVME to issue a temporary license to an applicant who is licensed in good standing as a veterinarian in another state or foreign country; meets the eligibility requirements in the Occupations Code; and is not subject to denial of a license or to disciplinary action.

Regulation of Funeral Establishments and Licensees—S.B. 864

by Senator Rodriguez—House Sponsor: Representative Marquez

Funeral homes frequently process life insurance claims on behalf of the family of the deceased, either directly by the funeral home or through the use of funding companies to file the claim. There is no inherent cost for filing a life insurance claim. Under current law, the funeral home operator can process the claim but is not required to disclose the charge for filing the life insurance claim when offering the service. The Texas Funeral Services Commission (TFSC) has written to the Federal Trade Commission (FTC) asking that the cost of filing a life insurance claim be documented on the funeral purchase agreement.

Provisions relating to the licensure and regulation of funeral establishment directors and employees also need to be updated. This bill:

Requires TFSC by rule to define the terms of employment of a provisional license holder and requires that the terms of the provisional license program be at least 12 consecutive months but not more than 24 consecutive months.

Redefines "retail price list" to include the retail price of filing a claim seeking life insurance proceeds on behalf of the beneficiaries.

Authorizes TFSC, 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 of the funeral establishment whose conduct is the basis of the violation was under the 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 of the funeral establishment by the funeral director in charge and the conduct engaged in by the licensed employee that is the basis of the violation.

Regulation of Personnel Services—S.B. 1168

by Senator Carona—House Sponsor: Representative Harper-Brown

A personnel employment service, which pairs individuals and permanent employers, must be registered with the Texas Department of Licensing and Regulation (TDLR). There are very few registered certificate holders and few complaints regarding personnel employment services, which calls into question the need for registration. This bill:

Deletes existing text authorizing a plaintiff in an action to obtain other relief the court considers proper including the revocation of a certificate authorizing the defendant to engage in business in this state.

Repeals Sections 2501.001(2) (defining "commission"), (3-a) (defining "counselor"), and (4-a) (defining "executive director"), Sections 2501.201(c) (relating to liability for damages) and 2501.253 (Administrative Penalty), and Subchapters B (Certificate of Authority) and D (Enforcement), Chapter 2501 (Personnel Services), Occupations Code.

Regulation of Barbers and Cosmetologists—S.B. 1170

by Senator Carona—House Sponsor: Representative Hamilton

During the 2005 legislative session, the Board of Barber Examiners and the Texas Cosmetology Commission were dissolved and their duties were assigned to the Texas Department of Licensing and Regulation (TDLR) under Chapters 1601 (Barbers), 1602 (Cosmetologists), and 1603 (Regulation of Barbering and Cosmetology), Occupations Code. Since that time few updates have been made to modernize the statutes. This bill:

Requires the Texas Commission of Licensing and Regulation (TCLR) to adopt rules for:

- the issuance of a Class A barber certificate to a person who holds an operator license under Chapter 1602;
- the licensing of specialty instructors to teach specialty courses in the practice of barbering; and
- the issuance of an operator license to a person who holds a Class A barber certificate.

Requires TDLR to issue a certificate to an applicant who holds an active operator license under Chapter 1602; completes at least 300 hours of instruction in barbering that includes barber history and shaving through a commission-approved training program in a barber school; passes the examination required; and submits to TDLR an application on a form prescribed by the TDLR and the required fee.

Authorizes a person holding a barber instructor license to perform any act of barbering and to instruct a person in any act of barbering.

Sets forth requirements for applicants to be eligible for a barber instructor license, a shampoo apprentice permit, a barber technician/manicurist specialty license, a barber technician/hair weaving specialty license, an instructor license, a specialty license in eyelash extension application, and a manicurist/esthetician specialty license.

Requires an applicant for a barber school permit to provide to TDLR adequate proof of financial responsibility; submit an application on a form prescribed by TDLR; satisfy the facility and equipment requirements; and pay the required fee.

Authorizes TDLR to approve an application for a permit for a barber school if the school meets certain conditions set forth in this bill.

Requires a barber school to have at least one instructor for every 25 students on the school's premises and to have at least one instructor for every three student instructors on the school's premises.

Requires a barber school's refund policy to provide that, among other things, the refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, as specified by an enrollment agreement, contract, or other document acceptable to TDLR.

Redefines "cosmetology" to mean the practice of performing or offering to perform for compensation certain services, including removing superfluous hair from a person's body using depilatories, preparations, or tweezing techniques, or applying semipermanent, thread-like extensions composed of single fibers to a person's eyelashes.

Requires TDLR to issue an operator license to an applicant who holds an active Class A barber certificate; completes 300 hours of instruction in cosmetology through a commission-approved training program in a cosmetology school; passes the examination required; and submits to TDLR an application on a form prescribed by TDLR and the required fee.

Requires an application for a private beauty culture school license be accompanied by the required license fee and inspection fee and, among other things, contain a statement that the building contains a minimum of 2,800 square feet of floor space if the building is located in a county with a population of more than 100,000 or 1,800 square feet of floor space if the building is located in a county with a population of 100,000 or less; has access to permanent restrooms and adequate drinking fountain facilities; and contains, or will contain before classes begin, the equipment established by commission rule as sufficient to properly instruct a minimum of 10 students.

Authorizes TDLR to allow for the early written examination of a student who has completed the certain number of hours of instruction in a department-approved training program.

Requires TDLR to conduct a study that analyzes the performance of barber schools and beauty culture schools, including the payment of refunds and recommendations for improvements to the process for the payment of refunds to eligible students.

Excavator's Duty to Notify a Notification Center—S.B. 1217

by Senator Estes—House Sponsor: Representative Hilderbran

When performing an excavation, excavators must first have a locating service ensure that there are no dangers beneath the ground. Once the locating service is called, the excavator must wait 48 hours before digging. Currently, Section 251.155 (Exception in Case of an Emergency), Utilities Code, waives an excavator's duty to provide notice of a dig to notification centers, if it is deemed that a dig is necessary to respond to a situation that endangers life, health, or property or a situation in which the public need for uninterrupted service and immediate reestablishment of service, if service is interrupted, compels the action. However, certain persons are taking advantage of the emergency exception to the 48-hour rule and are making false emergency declarations. This bill:

Requires the excavator, when an emergency exists, to notify a notification center as promptly as practicably possible.

Prohibits an excavator from misrepresenting a fact or circumstance used in the determination of an emergency excavation.

Provides that a person who violates provisions of this bill is subject to certain penalties.

Provides that an excavator that violates provisions of this bill is liable for a civil penalty of not less than \$1,000 or more than \$2,000.

Authorizes the board of directors of the corporation (board), if a county attorney or district attorney decides not to bring an action to recover the civil penalty, to give the excavator a warning letter and require the excavator to attend a safety training course approved by the board.

Provides that, if it is found at the trial on a civil penalty that the excavator has violated provisions of this bill and has been assessed a penalty or has received a warning letter from the board one other time before the first anniversary of the date of the most recent violation, the excavator is liable for a civil penalty of not less than \$2,000 or more than \$5,000.

Provides that, if it is found at the trial on a civil penalty that the excavator has violated provisions of this bill and has been assessed a penalty at least two other times before the first anniversary of the date of the most recent violation, or has been assessed a penalty at least one other time before the first anniversary of the date of the most recent violation and has received a warning letter from the board during that period, the excavator is liable for a civil penalty of not less than \$5,000 or more than \$10,000.

Provides that a person commits an offense if the person intentionally or recklessly violates provisions of this bill.

Registration of Certain Contract Examiners—S.B. 1229

by Senator Eltife—House Sponsor: Representative Eiland

The 81st Legislature, Regular Session, 2009, passed legislation that requires out-of-state independent contract examiners who examine a Texas domestic insurance company on behalf of another state to register with the Texas Department of Insurance (TDI). However, the legislation did not require the examiners to detail their invoices, which could show repetitive work, out-of-ordinary expenses, or charges incurred for travel and accommodations. In addition, such examiners are not required to show contracts with each state to examine the same company. Some examiners may have a contingency clause awarding bonuses for certain outcomes. This bill:

Requires a person with whom another state contracts to perform any market analysis or examination initiated by the other state of an insurer domiciled in this state or a managing general agent to register with and provide certain information to TDI chief examiner, including an estimate of the examination costs to be charged to the insurer 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.

Requires TDI, on accepting a person's registration, to send written confirmation of the acceptance to the person, the insurer to be examined, or the managing general agent, and the state regulatory body that initiated the examination.

Regulation of Health Spas—S.B. 1231

by Senator Estes—House Sponsor: Representative Laubenberg

S.B. 1231 modernizes the Health Spa Act (Act) by removing outdated requirements and addressing issues in the language of the Act that have arisen through its administration. This bill:

Requires a certificate holder to maintain the security filed or posted in effect until the earlier of the second anniversary of the date the certificate holder's health spa closes, or the date the secretary of state (SOS) determines that each claim filed against the security has been satisfied or foreclosed by law.

Deletes existing text requiring SOS, if the security filed or posted by a certificate holder is canceled, to suspend the certificate holder's certificate of registration on the date of cancellation, and maintain other security on file with SOS until the later of the second anniversary of the date the certificate holder's health spa closes, or the date SOS determines that each claim filed against the security has been satisfied or foreclosed by law.

Authorizes a member to file a claim against the security filed or posted by providing to SOS a copy of the contract between the member and certificate holder who filed or posted the security, accompanied by proof of payment made under the contract, if the certificate holder's health spa closes and fails to provide alternative facilities not more than 10 miles from the location of the health spa, or relocates more than 10 miles away from its location preceding the relocation.

Prohibits SOS from considering a security claim if the claim is received later than the 90th day after the date notice of the closure or relocation is first posted on SOS's Internet website.

Sets forth requirements for the language of a contract for certain purposes by health spas.

Authorizes SOS to permanently revoke a certificate of registration based on the certificate holder's failure to maintain the required security only after a finding by SOS that, within the 30-day period following the cancellation or lapse of the security, the certificate holder failed to file or post replacement security in the required amount.

Requires the certificate holder, at least 30 days before the date a health spa is scheduled to close or relocate, to contemporaneously take certain actions, including to post, inside and outside each entrance to the health spa, a notice stating that a member of the health spa may, not later than the 90th day after the date the notice of the closure or relocation is first posted on SOS's Internet website, file with SOS a claim to recover actual financial loss suffered by the member as a result of the health spa closing.

Use of Bingo Proceeds by Licensed Authorized Organizations—S.B. 1342

by Senator Seliger—House Sponsor: Representative Geren

Oversight of charitable bingo operations was transferred from the comptroller of public accounts to TABC in 1990 and to the Texas Lottery Commission (lottery commission) in 1993. Legislation transferring oversight to TLC stated that "the value of any health insurance or health benefit provided by a licensed authorized organization to any employee may not be included in the amount of a fee authorized by the lottery commission. The lottery commission requested an opinion from the attorney general who stated in 2007 that the statute, as it is currently written, provides that health insurance is not an allowed expense for employees. This bill:

Prohibits an item of expense from being incurred or paid in connection with the conduct of bingo except an expense that is reasonable or necessary to conduct bingo, including an expense for fees for bingo chairpersons, operators, managers, salespersons, callers, ushers, janitorial services, and utility supplies and services and health insurance or health insurance benefits for bingo chairpersons, operators, salespersons, callers, cashiers, and ushers.

Prohibits the value of health insurance or health insurance benefits provided by a licensed authorized organization to an employee from exceeding 50 percent of the total premium owed and if an employee is employed by more than one licensed authorized organization, prohibits the combined value of health insurance or health insurance benefits provided to the employee from exceeding 50 percent of the total premium owed.

Claims Against Real Estate Brokers and Salespersons—S.B. 1353

by Senator Eltife et al.—House Sponsor: Representative Solomons et al.

In 1995, the legislature created an exemption for certain professional services from the Deceptive Trade and Practices Act (DTPA) when providing judgments, opinions, advice, or other similar professional skills. Professionals who were protected by the exemption were intended to be registered, certified, or licensed persons who either paid into a recovery fund or who were covered by errors and omissions policies. Despite the enactment of the DTPA professional services exemption, the exemption has been inconsistently and infrequently applied to real estate licensees. Real estate licensees are often forced to defend against frivolous claims that the legislature intended to prevent. This bill:

Requires that nothing in Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, apply to a claim against a person licensed as a broker or salesperson under Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code, arising from an act or omission by the person while acting as a broker or salesperson.

Provides that this exemption does not apply to an express misrepresentation of a material fact that cannot be characterized as advice, judgment, or opinion; a failure to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed; or an unconscionable action or course of action that cannot be characterized as advice, judgment, or opinion.

Deadlines for the Review of Applications for Surface Coal Mining Operations—S.B. 1478

by Senator Hegar—House Sponsor: Representative Crownover

The Surface Mining and Reclamation Division of the Railroad Commission of Texas (railroad commission) serves as a permitting authority under the federal coal mining and reclamation program, also known as the Surface Mining Control and Reclamation Act. There are currently 25 permitted coal mining reclamation operations in Texas. The surface mining program is fully funded by fees paid by the regulated industries and matching federal funds received to compensate the state for administering the federal program. There is no statutory requirement for the railroad commission to complete its administrative and technical review of surface mining and reclamation permit applications, renewals, and revisions within a specific timeline. This bill:

Requires the director of the Surface Mining and Reclamation Division, (director) or the director's representative, not later than the seventh day after the railroad commission receives an application for a new permit or for renewal or a significant revision of a permit, to complete a review of the application to determine whether the application is complete.

Requires the director, if the director determines that the application is complete, to file the application with the railroad commission's office of general counsel for processing under railroad commission rules and Chapter 2001 (Administrative Procedure), Government Code.

Requires the director, if the director determines that the application is not complete, to send a written notice to the applicant that identifies the specific information that the applicant is required to provide to the railroad commission. Requires the director, not later than the seventh day after the date the railroad commission receives the requested information, to complete another review of the application to assess its completeness.

Requires the director, not later than the 120th day after the date the railroad commission receives an application that the director determines is complete, to complete the technical review of the application and make a recommendation to approve or deny the application to the railroad commission's office of general counsel.

Provides that if the director determines that the application is deficient, the period for completing the review of the application is tolled until the date the railroad commission receives the requested information from the applicant and the director is required to send a written notice to the applicant that notifies the applicant of certain information relating to reviewing the application.

Authorizes the director, if the applicant submits supplemental information to the railroad commission that is not in response to a request for information, to extend the review period required for an additional period of not more than 60 days. Requires the director to provide written notice to the applicant that includes the director's decision, and the number of days remaining in the review period.

Provides that certain sections of this bill do not apply to an application for a permit revision that the director determines is not a significant departure from the approved method or conduct of mining and reclamation operations. Requires the director, not later than the 90th day after the date the railroad commission receives a complete application, to provide written notice to the applicant that the permit revision request has been approved or denied.

Provides that if the director determines that the application is deficient, the review period to approve or deny the application is tolled until the date the railroad commission receives the requested information from the applicant and the director is required to send written notice to the applicant that notifies the applicant that the review period is being tolled, of the reason the review period is being tolled, of the information that the applicant is required to submit to the railroad commission before the railroad commission will resume the review of the application, and of the number of days remaining that the railroad commission has to review the application after the railroad commission receives the requested information from the applicant.

Inspection of Portable Fire Extinguishers—S.B. 1598

by Senator Carona—House Sponsor: Representative Smithee

In 2007, the 80th Legislature recodified articles in the Insurance Code in order to clarify and simplify statutes and to make the statutes more accessible, understandable, and usable. The simplification led to a change in the application of the law regarding exemptions for companies required to perform monthly quick checks of their portable fire extinguishers. The monthly check is a look at the exterior of the extinguisher as prescribed by a national standard and state law. After the change in statutory language, TDI and the State Fire Marshal questioned whether to regulate those who perform a monthly quick check. Many large businesses have numerous fire extinguishers and instead of hiring one or more company employees to conduct these simple inspections, the companies instead have chosen in the past to use contract employees, such as security services, which are on premises and patrolling the facilities on a daily basis. This bill:

Provides that the licensing provisions of Chapter 6001 (Fire Extinguisher Service and Installation), Insurance Code, do not apply to certain actions or entities, including the inspection of a firm's portable fire extinguisher by a person who is specially trained to perform portable fire extinguisher inspections and is under contract with the firm for that purpose.

Pool-Related Electrical Device Services—S.B. 1630

by Senator Birdwell—House Sponsor: Representative Fletcher

Current law prohibits persons from performing electrical related services without an electrician's license but previous legislatures have authorized a limited license for electrical work relating to pool and spa services. TDLR has interpreted current law to limit pool maintenance to only residential or multi-family settings of four stories or less and to exclude commercial properties. Pool technicians are often the ones trained in the maintenance and repair of sophisticated pool equipment and devices. This bill:

Redefines "residential appliance," "pool," and "pool-related electrical device."

Criminal History Information of Certain Applicants—S.B. 1812

by Senators Nichols and Davis—House Sponsor: Representative Hamilton

Easement and right-of-way agents are currently licensed by TREC and negotiate with property owners on behalf of pipeline companies for the purpose of acquiring easements, rights-of-way, and other land acquisitions. This bill:

Requires an applicant for an original certificate of registration or renewal of a certificate of registration to comply with the criminal history record check requirements of Section 1101.3521 (Criminal History Record Information Requirement for License), Occupations Code.

Compensatory Time Off for Employees of the Texas Parks and Wildlife Department—H.B. 46

by Representative Menendez—Senate Sponsor: Senator Hinojosa

Current law provides that Texas Parks and Wildlife Department (TPWD) dispatch personnel are to be compensated in the same manner as Department of Public Safety of the State of Texas (DPS) personnel. However, TPWD dispatch personnel are not eligible to receive compensatory time for working on holidays that fall on a Saturday or Sunday. This bill:

Adds TPWD dispatch personnel to the list of state employees entitled to compensatory time off for work performed on holidays that fall on a Saturday or Sunday at the rate of one hour for each hour worked on the holiday.

Enforcement of Public Safety—H.B. 242 [Vetoed]

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

Texas Rangers are a major division of the Department of Public Safety of the State of Texas (DPS) governed by the law regulating and defining the powers and duties of sheriffs performing similar duties, except that Texas Rangers may make arrests, execute process in a criminal case in any county and, if specially directed by the judge of a court of record, execute process in a civil case.

Special rangers are honorably retired commissioned officers of DPS appointed by the Public Safety Commission (PSC). A special ranger is subject to orders of the commission and the governor for special duty to the same extent as other law enforcement officers, except that a special ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle.

Special Texas Rangers, appointed by PSC, are honorably retired or retiring commissioned officers of DPS who were officers of the Texas Rangers immediately prior to retirement. A special Texas Ranger is subject to the orders of PSC and the governor for special duty to the same extent as other law enforcement officers, except that a special Texas Ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle.

There is some confusion as to whether certain retired federal and state law enforcement officers are entitled to carry a concealed handgun without a concealed handgun license. This bill:

Allows the PSC to call special rangers and special Texas Rangers into service to preserve the peace and protect life and property; conduct background investigations; monitor sex offenders; serve as part of two-officer units on patrol in high threat areas; provide assistance to DPS during disasters; and investigate instances of reckless driving.

Allows certain former federal law enforcement officers and certain reserve law enforcement officers who retired in good standing due to a service-connected disability, and who are otherwise eligible, to demonstrate weapons proficiency.

State Agency Lease Space—H.B. 265

by Representative Hilderbran—Senate Sponsor: Senator Birdwell

The Texas Facilities Commission (TFC) estimates that 34 percent of the state's office space statewide is leased property. TFC also estimates that another three percent of its inventory is non-office leased space. This large amount of leased real estate is costing the state millions of dollars a year that could be saved by moving these various departments occupying leased space as well as other state departments to state-owned facilities located across the state of Texas.

Section 2167.002 (Prerequisites for Leasing Space), Government Code, allows TFC to lease space for a state agency if state-owned space is not otherwise available to the agency and the agency has verified that it has money available to pay for the lease.

The purpose of this bill is to stop unnecessary spending and utilize state-owned property throughout the state to house government agencies that currently reside in rented or leased space. This bill:

Requires TFC to consider all state-owned space when making a determination that state-owned space was not available to a state agency; regardless of whether using the state-owned space, instead of leasing space, would require the agency to move all or part of its operations to a different location within Texas.

State Agency Reporting Requirements—H.B. 326

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Section 325.007 (Agency Report to the Commission), Government Code, requires a state agency subject to a Sunset Advisory Commission (SAC) review, before September 1 of the odd-numbered year before the year in which the agency would be abolished, to provide SAC with a report containing information relating to the agency's continuation. This bill:

Requires a state agency subject to an SAC review, before September 1 of the odd-numbered year before the year in which the agency would be abolished, to provide the governor, the lieutenant governor, and each member of the legislature a list of reports the agency was required to prepare for SAC and an evaluation regarding the continued need for those reports.

Notices Sent by the Texas Commission on Environmental Quality—H.B. 610

by Representative Zerwas et al.—Senate Sponsor: Senator Seliger

Legislators receive information and notices from the Texas Commission on Environmental Quality (TCEQ) that require the use of a large quantity of paper. This bill:

Requires TCEQ to utilize 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.

Provides that if the notice issued or sent concerns a permit for a facility, the notice must include an Internet link to an electronic map indicating the location of the facility.

Electronic Distribution of Information to Legislators by State Agencies—H.B. 726

by Representative Sheffield—Senate Sponsor: Senator Huffman

Many state agencies are required to mail various publications to state legislators at great expense due to reproduction and payroll costs associated with distribution. This bill:

Requires a state agency that issues a publication relating to the work of the agency and distributes the publication to members of the legislature to send to each member before distributing the publication an electronic notice to determine whether the member wants to receive the publication.

Requires a member who elects to receive the publication to notify the state agency and authorizes the person to do so electronically.

Provides that at the time a report required by law is ready for distribution outside the state agency, the agency shall send written notice electronically to each member of the legislature that the report is available.

Compensatory Time for Correctional Officers—H.B. 988

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

Certain state employees are required to use compensatory time during the 12-month period following the end of the workweek in which it was accrued or the compensatory time lapses. Correctional officers employed by the Texas Department of Criminal Justice (TDCJ) may be unable to take compensatory time off within the 12-month period and will lose the right to take the time earned. This bill:

Allows compensatory time earned by a correctional officer employed by TDCJ to be taken during the 24-month period following the end of the workweek in which the compensatory time was accrued.

State Agency Paper Size Regulation—H.B. 1247

by Representative Callegari—Senate Sponsor: Senator Birdwell

The 69th Legislature, Regular Session, 1985, created Section 2051.021 (Uniform Size of Paper Supply and Cabinet), Government Code, that regulated the sizes of paper and filing cabinets state agencies may purchase. The bill analysis and fiscal notes reveal that the intent of the statute is to standardize paper sizes across state government agencies. The law specifies that no state agency may purchase forms, bond paper, stationary pads, or other similar paper supplies larger than 8.5"x11" in size, nor may they purchase filing cabinets designed to hold paper larger than 8.5"x11" in size. Limited exceptions are made, such as for forms from the federal government, historical documents, artwork, diplomas, budgets, and other documents. This bill:

Repeals this law, thereby eliminating the regulation on the types of paper and filing cabinets that state agencies may purchase.

Texas Parks and Wildlife Department Fundraising and Private Partnerships—H.B. 1300

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

A legislative report examining various ways to increase private contributions for state parks found that TPWD is limited in its authority to expand development of corporate partnerships and joint promotional campaigns. This prevents TPWD from being able to develop a financially beneficial partnership with a private for-profit company. To implement the recommendations of the report, legislation was needed to expand the scope of TPWD's fundraising and partnership development activities to include private entities. This bill:

Authorizes TPWD to select a for-profit entity as an official corporate partner, subject to Texas Parks and Wildlife Commission (TPWC) approval.

Authorizes TPWD to contract with one or more official corporate partners to raise funds for state site operations and maintenance of other projects or programs.

Authorizes an official corporate partner, to raise funds for state site operations and maintenance or other priority projects or programs, to accept contributions, gifts, grants, and promotional campaign proceeds on behalf of TPWD or provide contributions, gifts, grants, and promotional campaign proceeds to TPWD.

Directs how TPWD may use the funds that it receives under a contract or licensing or other agreement or as a gift or grant. Requires TPWC to adopt rules regarding how such funds may be spent.

Authorizes TPWD to contract with any entity TPWD considers appropriate to sell state park passes in any of the entity's retail locations. Authorizes TPWD to contract with any entity TPWD considers appropriate to use the TPWD brand in exchange for licensing fees paid by the entity to TPWD.

Requires TPWC to adopt rules prohibiting inappropriate commercial advertising in state parks, natural areas, historic sites, or other sites under the jurisdiction of TPWD.

Right-of-Way Easements on by Texas Parks and Wildlife Department Land—H.B. 1449

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Under current law, TPWC does not have authority to grant, lease, or renew permanent or temporary right-of-way easements on land owned by TPWD. This bill:

Authorizes TPWC to grant, lease, or renew permanent or temporary right-of-way easements on TPWD land for public highways, roads and streets, and ditches; electric lines and pipelines, electrical substations; equipment used in the provision of communication services; or the provision of utilities for the operation of facilities of TPWD and roadways for access to facilities of TPWD.

Prohibits TPWC, except as provided by this subsection, from granting or leasing an easement unless TPWC receives the fair market value as consideration for the grant or lease.

Requires that a grant or lease contain a full reservation of minerals in and under the land. Authorizes TPWC to impose other fair and reasonable conditions, covenants, and provisions.

TPWD Study of Tort Liability Regarding Volunteers—H.B. 1450

by Representative Guillen—Senate Sponsor: Senator Zaffirini

TPWD used hundreds of volunteers to perform diverse tasks that would otherwise be done by TPWD staff. In recent years, it has become difficult for TPWD to obtain private insurance that would cover its volunteers when they operate TPWD vehicles. If a park visitor is the victim of a motor vehicle accident caused by the negligence of a park worker, the visitor's ability to recover damages from TPWD depends on whether the worker is an employee or a volunteer because TPWD is not liable for motor vehicle accidents caused by volunteers. This bill:

Requires TPWD to perform a study regarding potential tort liability arising from the operation of a TPWD-owned motor vehicle by a volunteer.

Redundant State Agency Reporting Requirements—H.B. 1781

by Representative Price et al.—Senate Sponsor: Senator Nelson

Current law requires a wide variety of governmental entities to submit various reports. The number of required reports grows each year and some reports are duplicative. Other reports are obsolete and no longer useful because related programs or funds have been abolished or because programs and services have changed. This bill:

Requires the executive director of each state agency, not later than August 1, 2012, to examine the agency's statutory reporting requirements and identify reports that are determined to be unnecessary, redundant, or required

to be provided at a frequency for which data is not available and provide an electronic report to the governor, the lieutenant governor, the speaker of the House of Representatives, the chair of the House Committee on Government Efficiency and Reform, the chair of the Senate Committee on Government Organization, chair of each standing committee of the Senate and House of Representatives with jurisdiction over the agency, the Texas State Library and Archives Commission, and the Legislative Budget Board (LBB).

Authorizes the reports submitted to not include reporting requirements that are required by federal law.

Provides that the preceding provisions expire on September 1, 2014.

Requires SAC to review and make recommendations on agency reporting requirements as part of the Sunset review process.

Eliminates several reports that are either completed by or submitted to the Office of the Attorney General (OAG) and other state agencies.

Creation of the Texas Grain Producers Indemnity Board—H.B. 1840

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

Grain producers sell to various grain buyers, including grain warehouses or elevators. Frequently, a producer stores the grain at a warehouse to be sold at a later date. According to the Texas Department of Agriculture (TDA), 17 grain elevators abruptly went bankrupt or failed in the past two years. Many farmers lost hundreds of thousands of dollars when the failed elevators closed their doors. In the event that a warehouse becomes insolvent, bonds held by warehouses as required under current law pay only a fraction of the value of the crop. This bill:

Establishes the Texas Grain Producer Indemnity Board to indemnify grain producers for economic hardships in the event that a grain buyer is unable to pay the grain producer for the grain producer's grain.

Sets forth requirements relating to the composition and duties of the Texas Grain Producer Indemnity Board.

Authority of Texas Animal Health Commission to Set and Collect Fees—H.B. 1992

by Representatives Hardcastle and Susan King—Senate Sponsor: Senator Williams

The Texas Animal Health Commission (TAHC) has the authority to adopt and enforce regulations to prevent, control, and eradicate specific infectious animal diseases or pests that endanger livestock, exotic livestock, and poultry. TAHC is also the primary Texas agency for addressing animal disaster issues, including animal diseases, and for ensuring consumer confidence that animals and animal products in Texas are disease-free. A recent recommendation would change TAHC's funding structure from one that is primarily funded through the state's general revenue fund to one in which a portion of the funding comes from fees for services. This change that would require TAHC to generate new fee revenue streams to fund up to approximately half of its future budgets. Currently, TAHC's authority to assess fees lies primarily with inspection processes, which restricts the agency's ability to ensure fair and equitable revenue streams in the future. This legislation will help TAHC achieve the proposed change to its method of funding. This bill:

Authorizes TAHC to assess any appropriate fees for the services or enforcement actions that TAHC provides to agricultural animal industries.

Sets a limit on the maximum amount that can be collected from such fees, and provides that such funds may only be used for the purpose for which the fee is collected.

Texas Correctional Office on Offenders with Medical or Mental Impairments—H.B. 2119

by Representative Madden—Senate Sponsor: Senator Whitmire

The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) establishes and funds certain juvenile treatment services and programs. This bill:

Requires TCOOMMI to provide a service or program only if the legislature appropriates money specifically for that purpose.

Allows, but does not require, TCOOMMI to provide a service or program using other appropriations available for that purpose.

Board of Trustees of the Teacher Retirement System of Texas—H.B. 2120

by Representative Doug Miller et al.—Senate Sponsor: Senator Duncan

Currently the Teacher Retirement System (TRS) board of trustees is composed of seven members appointed by the governor. TRS is experiencing an increase in the number of retirees in its membership, many of whom are actively working on issues affecting TRS. This bill:

Requires the governor to appoint one member of the TRS board of trustees from a slate of three persons who have been nominated collectively by TRS members whose most recent service was performed for an institution of higher education; members whose most recent service was performed for a public school district; and persons who have retired and are receiving benefits from the retirement system.

Provides that a person may be nominated for appointment to the board if the person is a member of the retirement system who is currently employed by an institution of higher education; a member of the retirement system who is currently employed by a public school district; or a former member of the retirement system who has retired and is receiving benefits from the system.

Provides that it is grounds for removal from the board of trustees that a trustee violates a prohibition in the Government Code which prohibits certain board of trustees members from being TRS members and prohibits a board of trustees member or the member's spouse from receiving funds from TRS, conducting business with TRS, or from being involved in any way with a Texas trade association.

Requires the TRS executive director to notify the presiding officer of the board of trustees of the grounds for removal and requires the presiding officer to notify the governor and the attorney general that a potential ground for removal exists.

Requires the TRS executive director, if the potential ground for removal involves the presiding officer, to notify the governor and the attorney general that a potential ground for removal exists.

Authority of the Public Utility Commission to Disgorge Revenue—H.B. 2133

by Representative Solomons—Senate Sponsor: Senator Fraser

Currently, the Public Utility Commission (PUC) does not have the ability to order disgorgement, which is when wrongdoers are forced to repay ill-gotten gains. This bill:

Requires PUC, for a violation of Section 39.157 (Commission Authority to Address Market Power), Utilities Code, to, in addition to the assessment of a penalty, order disgorgement of all excess revenue resulting from the violation.

Authorizes PUC, for any other violation of the statutes, rules, or protocols relating to wholesale electric markets, to, in addition to the assessment of a penalty, order disgorgement of all excess revenue resulting from the violation.

Authorizes PUC and a person to enter into a voluntary mitigation plan or rules adopted by PUC under Section 39.157. Provides that if PUC and a person enter into a voluntary mitigation plan, adherence to the plan constitutes an absolute defense against an alleged violation with respect to activities covered by the plan.

Requires that the parties to a certain proceeding be limited to the person and PUC, including the independent market monitor.

Requires that any excess revenue ordered disgorged for a violation of the statutes, rules, or protocols relating to wholesale electric markets be returned to the affected wholesale electric market participants to be used to reduce costs or fees incurred by retail electric customers. Requires PUC to adopt rules to prescribe how revenue is required to be returned to the affected wholesale electric market participants.

Adopt-A-Library—H.B. 2139

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Currently, state agencies are incurring budget cuts that have forced, and are presently forcing, reductions in services and public resources. Libraries are a vital resource in many communities. With no other source of revenue, public libraries will be forced to make drastic cuts that will inevitably hurt the communities these libraries serve. This bill:

Authorizes the Texas State Library and Archives Commission (TSLAC) to establish or to assist other state agencies or organizations in the establishment of an Adopt-A-Library program to encourage investment in and donations to public libraries in this state.

Authorizes TSLAC to use any cash, gift, grant, donation, or in-kind contribution that it receives from a public or private entity through the Adopt-A-Library program to assist TSLAC or public libraries in this state in the establishment, provision, improvement, or expansion of library services.

Requires TSLAC to provide information about the Adopt-A-Library program on TSLAC's Internet website.

Authorizes TSLAC to adopt rules reasonably necessary to perform its duties under this section.

Provides that, for purposes of Subchapter I (Charitable Contributions), Chapter 659 (Compensation), Government Code, the Adopt-A-Library program is considered an eligible charitable organization entitled to participate in the state employee charitable campaign; and a state employee is entitled to authorize a deduction for contributions to the Adopt-A-Library program as a charitable contribution under Section 659.132 (Deduction Authorized).

Employees Retirement System of Texas Advisory Committee—H.B. 2193

by Representative Truitt—Senate Sponsor: Senator Duncan

The Employees Retirement System (ERS) board of trustees (board) has used an investment advisory committee (IAC) to help determine its eligible securities, asset mix, portfolio strategy, and investment policy since 1966. Currently, there are no regulations in statute addressing eligibility, ineligibility, review, or removal of IAC members and no guidelines on how to ensure that a member has no conflicts of interest. This bill:

Authorizes the board to establish an investment advisory committee as the board considers necessary to assist the board in its investment duties.

Requires that a person appointed to serve on the IAC to provide advice to the board on investments and investment-related issues be a person with expertise in the management of a financial institution or other business in which investment decisions are made or a prominent educator in the field of economics, finance, or another investment-related area.

Requires that a person appointed to serve on the IAC assist the board in carrying out the board's fiduciary duties with regard to the investment of the assets of ERS and related duties.

Provides that a person is not eligible for appointment to an IAC if the person or the person's spouse is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or is a paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment.

Provides that a person is not eligible for appointment to an IAC if the person is required to register as a lobbyist because the person's activities for compensation on behalf of a business or an association related to the investment of the assets of this state or ERS.

Requires the board, at least annually, to review the eligibility status of members serving on an IAC.

Provides that it is grounds for removal from an IAC if a person does not meet the professional qualifications; is unable to discharge the person's duties on the committee because of illness, disability, or other personal circumstances; or is absent from more than half of the scheduled meetings of the committee during a calendar year.

Requires the executive director or a member of the IAC, if the executive director or member has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of trustees of the potential ground for removal.

Establishes that the provisions regarding review and removal of an IAC member does not limit the power of the board to remove a person from the IAC serving on the IAC at the pleasure of the board under provisions in the Government Code and authorizes the board to prescribe the process for removal from a IAC.

Transfer of TBCJ Property to the Texas Forest Service—H.B. 2518

by Representative Kolkhorst—Senate Sponsor: Senator Ogden

The Texas Forest Service (TFS) and the Texas Board of Criminal Justice (TBCJ) entered into a lease agreement a number of years ago for a number of acres of land in the city of Huntsville to be used by the forest service as the location for a regional office. TFS and TBCJ agreed to lease payment conditions, but due to statutory changes requiring TBCJ to lease property for fair market value, a lease renewal would require a substantial increase in lease payments and make the lease financially unfeasible for TFS.

TBCJ has agreed to transfer the property to TFS for its continued use as the location for the regional TFS office. Transfer of property from TBCJ must be approved by the Texas Legislature. This bill:

Requires TBCJ, not later than January 1, 2012, to transfer to the board of regents of The Texas A&M University System board certain real property.

Requires TBCJ to use the property transferred under this Act only for the use and benefit of the TFS.

Provides that if TFS uses the property for any purpose other than for the use and benefit of TFS, ownership of the property automatically reverts to TBCJ.

Requires TBCJ to transfer the property by an appropriate instrument of transfer. Requires the instrument of transfer to provide that the board use the property only for the use and benefit of TFS, and ownership of the property will automatically revert to TBCJ if the board uses the property for any purpose other than for the use and benefit of TFS; and describe the property to be transferred by metes and bounds.

Requires the board to retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of Walker County.

Sets forth the initial boundaries of the real property referred to in this bill.

Texas Facilities Commission Receipt of Gifts, Grants, and Donations—H.B. 2769

by Representative Frullo—Senate Sponsor: Senator Wentworth

Currently, TFC does not have sufficient formal authority to accept or receive gifts, grants, or private donations in support of its programs, with certain exceptions. This bill:

Authorizes TFC 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 TFC.

Guidelines for the Office of the State Demographer—H.B. 3255

by Representatives Strama and Anchia—Senate Sponsor: Senator Van de Putte

The Office of the State Demographer compiles data about demographic and socioeconomic groups in Texas and works in conjunction with the Texas State Data Center (TSDC) to share such information with state policymakers and the United States Census Bureau. The state demographer produces annual estimate and biennial projections regarding state and counties by age, sex, and race/ethnicity. The projects are used extensively by public and private entities and are circulated by TSDC. This bill:

Requires the state demographer to adhere to current standards of practice when determining which racial/ethnic groups to include in estimates and projections and provide information by request which justifies the omission of any particular racial/ethnic group from estimates and projections, including limitations of data and methodology.

Purchasing Preference for Certain Products and Systems—H.B. 3395

by Representative Callegari—Senate Sponsor: Senator Lucio

Current law requires TFC and state agencies to give preference to the purchase of recycled products, including recycled paper, motor oil, and lubricants that contain at least 25 percent recycled oil. These preferences for recycled products sometimes require that state agencies purchase more expensive items. Making phone directories available upon request rather than providing a phone directory to each consumer can save money and paper. This bill:

Makes the current requirement that TFC and state agencies purchase recycled materials permissive.

Requires DIR, to ensure efficient operation of the consolidated telecommunications system at minimum cost to the state, to adopt and disseminate to all agencies appropriate guidelines and operation procedures, and to publish certain telephone directories on a state Internet website.

Authorizes a telecommunications provider or telecommunications utility to publish on the provider's or the utility's Internet website a telephone directory or directory listing instead of providing for general distribution to the public of printed directories or listings.

Requires a provider or utility that publishes a telephone directory or directory listing to provide a print or digital copy of the directory or listing to a customer on request.

Requires a provider or utility, if it exercises this option, to notify its customers that the provider or utility is required to provide the first print or digital copy requested by a customer in each calendar year at no charge to the customer.

Child Care Advisory Committee for the Texas Facilities Commission—H.B. 3404

by Representative Naishtat—Senate Sponsor: Senator Watson

In 1989, the legislature passed S.B. 1480 establishing the Child Care Development Board (CCDB) and requiring CCDB to develop and administer a program to provide child care services for state employees who work in a state-owned building or the Capitol Complex. The bill established the Child Care Advisory Committee (CCAC) to advise CCDB on the location, site, and design of the child care facilities, and the curriculum required to be provided by the facility. The bill required the General Services Commission (GSC), to establish child care facilities at the direction of CCDB by acquiring or renovating property, making contracts, and implementing plans for the facilities.

In 2001, CCDB was abolished and the key duties and responsibilities of CCDB relating to the provision of child care services to state employees was transferred to GSC. The bill required CCAC to advise GSC on the location, size, and design of the child care facilities, and the curriculum required to be provided by the facility.

Under Section 2110.008(b)(2) (relating to the duration of advisory committees), Government Code, CCAC ceased to exist in 2005. Since that time, the child care center has continuously been subject to the normal regulations applicable to all such child care operations and the Texas Facilities Commission (TFC), as successor agency to GSC, has continued to provide facility management services to the Capitol Complex Child Care Center (center). However, there is no formal state entity comprised of individuals who are interested in child care services for state employees and who possess specific subject-matter expertise to advise TFC on matters relating to the center. This bill:

Reestablishes CCAC to advise TFC on the location, site, and design of the child care facilities, and the curriculum required to be provided by the state child care center.

Provides that CCAC is abolished and this section expires September 1, 2021.

Preservation and Maintenance of the Alamo—H.B. 3726

by Representative Guillen—Senate Sponsor: Senator Van de Putte

The Alamo has been managed by the Daughters of the Republic of Texas since 1905 and represents nearly 300 years of history. Three buildings, the Shrine, Long Barrack Museum, and the Gift Museum, house exhibits on the Texas Revolution and Texas history. This bill:

Requires the General Land Office (GLO) to employ staff necessary to preserve and maintain the Alamo complex and contract for professional services of qualified consultants and prepare an annual budget and work plan, including preservation, future construction, and usual maintenance for the Alamo complex, including buildings on the Alamo property, their contents, and their grounds.

Authorizes GLO to consult with the State Preservation Board in the performance of duties relating to the Alamo.

Requires GLO to enter into an agreement with the Daughters of the Republic of Texas for the management, operation, and financial support of the Alamo complex.

Authority of the Texas Holocaust and Genocide Commission—S.B. 247

by Senators Shapiro and Ellis—House Sponsor: Representative Hochberg

The Texas Holocaust and Genocide Commission (THGC) consists of 15 commissioners, three ex officio members, and one half-time staff person. THGC is administered by the Texas Historical Commission, which has the authority to seek matching grants and to affiliate with a nonprofit organization. This bill:

Allows THGC to provide matching grants to assist in the implementation of the THGC'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 THGC.

Composition of the Finance Commission of Texas—S.B. 249

by Senator Estes—House Sponsor: Representative Orr

The Finance Commission of Texas (finance commission) is a nine-member body appointed by the governor for six-year terms that oversees the operations of the Texas Department of Banking, the Savings and Mortgage Lending Department, and the Office of the Consumer Credit Commissioner. The finance commission is composed of one banking executive, one savings bank executive, one mortgage broker, one representative from the consumer credit industry, and five citizen members, one of whom must be a certified public accountant. This bill:

Provides that the finance commission is composed of 11 members, rather than nine members, appointed by the governor with the advice and consent of the senate.

Provides that members of the finance commission serve staggered six-year terms, with as near as possible to one-third of the members' terms expiring February 1 of each even-numbered year.

Requires that two members of the finance commission be banking executives, one member of the finance commission be a savings executive, one member of the finance commission be a consumer credit executive, and one member of the finance commission be a mortgage broker.

Requires that six members of the finance commission be representatives of the general public.

Fund Obligations and Accounts of the Texas Municipal Retirement System—S.B. 350

by Senator Williams—House Sponsor: Representative Truitt

The Texas Municipal Retirement System (TMRS) was established in 1948 to deliver secure and competitive retirement plans through a professionally managed organization that anticipates diverse needs; provides quality services; and openly and effectively communicates with members, retirees, and cities. This bill:

Redefines "member" and "individual account."

Provides clarifying language throughout the statute with references to "credit," rather than "deposit"; "member's account," rather than "an individual account for the member in the employees saving fund"; "benefit accumulation

fund," rather than "municipality accumulation fund"; "contributions," rather than "deposits"; and "accrued," rather than "accumulated."

Provides that when a person who has military service credit retires and has paid for military service credit under former law, TMRS shall compute an amount equal to the sum of any accumulated amount paid by the person for the military service credit under former law, plus an equal amount multiplied by the municipality's current service matching percent in effect on the date the member applied for the military service credit.

Requires TMRS to use the sum derived from that computation to make annuity payments to the person that are computed in the manner as is the person's current service annuity, but provides that the military service credit and the sum may not be used in other computations, including computations of updated service credits or prior service credits.

Provides that a current service annuity is actuarially determined on the date of a member's retirement from the sum of the amount credited to the member's individual account and an additional amount from the benefit accumulation fund equal to the amount in the member's individual account or a greater amount.

Provides that a person will receive from TMRS a single payment equal to the sum of any updated service credit or prior service, special prior service, or antecedent service credit; the amount credited to the person's individual account; and an additional amount from the benefit accumulation fund equal to the amount in the member's individual account or a greater amount.

Provides that if a disability retirement annuity is discontinued or the right to an annuity is revoked, the retiree is entitled to a lump-sum payment in an amount by which the amount in the retiree's individual account at the time of disability retirement exceeds the amount of current service annuity payments made before the date the annuity was discontinued or revoked.

Establishes that the benefit provided is payable from the benefit accumulation fund, rather than the current service annuity reserve fund.

Requires that all assets of TMRS be credited, according to the purpose for which they are held, to a benefit, accumulation fund, interest fund, endowment fund, expense fund, supplemental disability benefits fund, or supplemental death benefits fund.

Requires TMRS to establish in the participating municipality's account in the benefit accumulation fund an individual account for each person who is a member of TMRS through employment in that municipality and to credit a member's individual account interest allowed on amounts credited to the account.

Provides that if a retiree resumes employment, TMRS shall reestablish an individual account for the member in the participating municipality's account in the benefit accumulation fund and credit to that account the portion of the balance of the person's retirement reserve that is attributable to the person's prior accumulated contributions.

Provides that the annuities payable are liabilities and obligations of the participating municipality for which the service was performed on which the annuities are based and are payable from the municipality's account in the benefit accumulations fund.

Authorizes the board of trustees to proportionately reduce all payments under annuities payable, at any time and for a period necessary, to prevent those payments for a year from extending the amount available in the participating municipality's account for prior service.

Provides that the annuities payable are liabilities and obligations of the participating municipality for which the service was performed, or granted as the result of reinstated service previously canceled, on which the annuities are based and are payable from the municipality's account in the benefit accumulation fund.

Strikes language in the Government Code requiring the actuary to calculate the amount of reserves required to pay all annuities that are obligations of the supplemental disability benefits fund.

Provides that the interest credited to a member's individual account in a calendar year may not be less than five percent.

Requires the board of trustees, effective as of December 31 of each year, to credit interest on the accumulated contributions in a member's individual account as of January 1 of that year.

Requires the board of trustees, after deductions for member contributions are paid, to deposit the receipts in the benefit accumulation fund and credit the appropriate amounts to the member's individual accounts.

Provides that a participating municipality that fails to remit before the 16th day of the month all required contributions to be made and remitted to TMRS by that date shall pay to TMRS, in addition to the contributions, interest on the past-due amounts at an annual rate that is the total of TMRS's investment return assumption for the preceding calendar year, plus two percent.

Authority of TWDB to Provide Financial Assistance for Certain Projects—S.B. 370

by Senator Seliger—House Sponsor: Representative Ritter

Regional planning groups work directly with the Texas Water Development Board (TWDB) to develop the State Water Plan so that local groups will know whether those applying should receive funding from the state. This bill:

Prohibits TWDB from approving an application if the applicant has failed to satisfactorily complete a request by the executive administrator of TWDB (executive administrator) or a regional planning group for information relevant to the project, including a water infrastructure financing survey.

Prohibits TWDB from accepting an application for a loan or grant of financial assistance from the development fund for a project recommended through the state and regional water planning processes if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey.

Prohibits TWDB from using the state participation account of the development fund to finance a project recommended through the state and regional water planning processes if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey.

Comptroller of Public Accounts Cooperative Purchasing Program Eligibility—S.B. 400

by Senators Shapiro and Nelson—House Sponsor: Representative Hopson

In Texas, over 9,200 child care providers care for more than 1.5 million young children daily. Research emphasizes the importance of the quality of this care. The elements that produce positive outcomes, mainly qualified caregivers and small ratios and group sizes, are costly. Many providers face the challenge of how to provide this care while not pricing themselves or parents out of the market.

The Texas Rising Star program is a child care program where a child care provider that has an agreement with a local workforce development board's child care contractor to serve children whose care is subsidized by TWC and that voluntarily meets requirements that exceed the state's minimum licensing standards for child care facilities.

There are no avenues that exist to encourage providers who participate in the Texas Rising Star program to save money on consumable supplies and technology and enable them to afford elements that produce positive outcomes for children. Currently, local governments, mental health and mental retardation community centers, and "assistance organizations" can access the Texas Procurement and Support Services Cooperative Purchasing Program. This bill:

Authorizes Texas Rising Star providers to access the cooperative purchasing program, allowing them to purchase consumable supplies, technology, and services at a discounted rate.

Sunset Review Process—S.B. 652

by Senator Hegar—House Sponsor: Representative Bonnen

The legislature frequently changes the review schedule for certain agencies to balance the workload of SAC, to better align the reviews of agencies by grouping them based on subject matter, and in some cases, to serve as a safety net in the event an agency sunset bill is in danger of not passing. This bill:

Requires TDCJ and the Windham School District undergo a limited purpose review for the 83rd Legislature.

Changes the Sunset date of the following entities to September 1, 2013: the Texas Higher Education Coordinating Board (THECB), the Texas Ethics Commission (TEC), the Texas Wind Insurance Agency, the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, the Railroad Commission of Texas (railroad commission), and the Public Utility Commission of Texas (PUC).

Makes the Electric Reliability Council of Texas (ERCOT) subject to a SAC review by requiring an independent organization certified by PUC undergo a review but stipulating that this organization is not subject to abolishment.

Aligns the independent organization review with the PUC review and stipulates that that review will occur during the 2011-2012 legislative interim.

Makes the Port of Houston Authority of Harris County subject to SAC review for the 2011-2012 legislative interim but does not make this entity subject to abolishment.

Requires the Port of Houston Authority of Harris County to pay the cost incurred by SAC for the review.

Makes the regional education service centers subject to the Chapter 325 (Texas Sunset Act), Government Code, and makes the sunset date for these centers September 1, 2015.

Changes the Sunset date of the following entities to September 1, 2015: the Finance Commission of Texas (finance commission), the Office of Banking Commissioner, the Office of Savings and Mortgage Lending Commissioner, the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, the Health and Human Services Commission (HHSC), the Texas Health Services Authority, the Department of State Health Services (DSHS), the Texas Council for Developmental Disabilities, the Governor's Committee on People With Disabilities, the Department of Assistive and Rehabilitative Services, the Texas Council on Purchasing From People With Disabilities, the Department of Aging and Disability Services, TWC, and the State Securities Board.

Requires SAC to evaluate the Tax Division of SOAH and present to the 84th Legislature, rather than 83rd Legislature, a report on that evaluation and SAC's recommendations in relation to the tax division.

Changes the Sunset date of the following entities to September 1, 2017: the Court Reporters Certification Board, the Licensed Court Interpreter Advisory Board, the State Bar, the Board of Law Examiners, the State Board of Dental Examiners, the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Texas Board of Physical Therapy Examiners, the Texas Board of Occupational Therapy Examiners, and the Texas Board of Orthotics and Prosthetics.

Makes the Process Server Review Board established by Supreme Court order subject to review under Chapter 325 (Texas Sunset Act), Government Code, as if it were a state agency but provides that it may not be abolished under that chapter.

Requires that the preceding review be conducted as if the Process Server Review Board were scheduled to be abolished September 1, 2017.

Changes the Sunset date of the following entities to September 1, 2019: DPS, the Adjutant General's Department, the Texas Veterans Commission, the School Land Board, TCLR, TDLR, the Texas Funeral Service Commission, the Texas Board of Professional Geoscientists, the Texas Board of Professional Land Surveying, the Texas State Board of Plumbing Examiners, and the Texas Department of Motor Vehicles.

Changes the Sunset date of the following entities to September 1, 2021: TAHC, the Prepaid Higher Education Tuition Board, the Texas Guaranteed Student Loan Corporation, the Texas Economic Development and Tourism Office, and the Office of State-Federal Relations.

Aligns the Texas Invasive Species Coordinating Committee to be reviewed during the periods in which the State Soil and Water Conservation Board is reviewed.

Changes the Sunset date for the Office of Public Utility Counsel (OPUC) to September 1, 2023.

Amends the dissolution provision for the board of directors of the Official Citrus Producers' Pest and Disease Management Corporation by deleting language relating to its abolishment by September 1, 2021.

Retains a provision that authorizes the commissioner of agriculture to order the dissolution of the board of directors of the Official Citrus Producers' Pest and Disease Management Corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned.

Provides conforming amendments to various agencies that powers were previously transferred from other agencies.

The SAC review schedule may be found on SAC's website at: <http://www.sunset.state.tx.us/outline.htm>.

Duties of the Secretary of State—S.B. 792

by Senator Duncan—House Speaker: Representative Branch

Current law requires the secretary of state (SOS) to maintain a register of all state officers in a separate suitable book and to send each county clerk in the state a list of states or territories within the United States that require an official seal for certain documents (list). This bill:

Removes the requirement that the register of all state officers be kept in a separate suitable book.

Requires SOS to make the list available to the county clerks of this state before January 1 of each year.

Requires SOS to amend the list and make the amended list available to the county clerks of the state if SOS learns that a state or territory has changed its requirements.

Assistance Provided by the Office of Public Utility Counsel—S.B. 855

by Senator Duncan—House Sponsor: Representative Hilderbran

Currently, a landowner affected by the construction or modification of a transmission line is notified by the utility when it files its certificate of convenience and necessity application with PUC. The notice informs the landowner of the option of becoming a party to the contested case. Although the administrative process is an adversarial process, legal representation is not necessary. However, there is no entity charged with assisting pro se litigants with procedural matters. This bill:

Authorizes OPUC to, among certain authorized and required tasks, advise persons who are interested parties for purposes of Section 37.054 (Notice and Hearing on Application), Utilities Code, on procedural matters related to proceedings before the PUC on an application for a certification of convenience and necessity.

Requires PUC, when an application for a certificate is filed, to give notice of the application to interested parties and to OPUC, and if requested, set a time and place for a hearing and give notice of the hearing.

Status of the Texas Real Estate Commission—S.B. 1000

by Senator Eltife et al.—House Sponsor: Representative Geren et al.

The Texas Real Estate Commission (TREC) is charged with regulating individuals and entities in the real estate business and assessing licensing and registration fees. These fees allow TREC to carry out its mission of protecting consumers through programs of education, licensing, and industry regulation. However, some funds are retained in the state general revenue fund and are not used to support the agency and its mission. This bill:

Provides that, notwithstanding any other provision of law, TREC is self-directed and semi-independent.

Requires TREC and the Texas Appraiser Licensing and Certification Board (TALCB), notwithstanding any other provision of law, including the General Appropriations Act, to each adopt a separate budget annually using generally accepted accounting principles.

Requires TREC to be responsible for all direct and indirect costs of TREC's existence and operation and requires the board to be responsible for all direct and indirect costs of the TALCB's existence and operation.

Prohibits TREC and TALCB from directly or indirectly causing the general revenue fund to incur any cost.

Authorizes TREC and TALCB, notwithstanding any other provision of law, to each set the amounts of the respective fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the separate functions of TREC and TALCB and funding the respective budgets of TREC and TALCB.

Requires all fees and funds collected by TREC or TALCB and any funds appropriated to TREC or TALCB to be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company.

Requires certain fees collected to be remitted to the state and deposited in the appropriate fund in the state treasury and requires TREC and TALCB to remit \$750,000 to the general revenue fund not later than August 31 of each fiscal year.

Requires the state auditor to enter into a contract and schedule with TREC and TALCB to conduct audits.

Requires TREC and TALCB to keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of TREC and TALCB.

Requires TREC and TALCB, before the beginning of each regular session of the legislature, to submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium, and sets forth requirements for the report.

Authorizes TREC or TALCB, to carry out and promote the objectives of this bill, to enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of TREC's or TALCB's respective affairs and for the attainment of TREC's or TALCB's respective purposes.

Prohibits any indebtedness, liability, or obligation of TREC or TALCB incurred from creating a debt or other liability of this state or another entity other than TREC or TALCB, as appropriate; or creating any personal liability on the part of the members or employees of the agency.

Authorizes TREC or TALCB to:

- acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the respective powers, rights, privileges, or functions of TREC or TALCB;
- sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that TREC or TALCB, as appropriate, determines is not necessary or convenient to the exercise of TREC's or TALCB's respective powers, rights, privileges, or functions;
- construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the respective powers, rights, privileges, or functions of TREC or TALCB; and
- borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of TREC or TALCB, as appropriate, for a period not to exceed five years if necessary or convenient to the exercise of TREC's or TALCB's respective powers, rights, privileges, or functions.

Requires the office of the attorney general to represent TREC and TALCB in any litigation.

Requires TREC and TALCB, not later than August 31 of each fiscal year, to remit a nonrefundable retainer to the State Office of Administrative Hearings in an amount of not less than \$75,000 for hearings conducted by the State Office of Administrative Hearings under a law administered by TREC or TALCB.

Requires that TREC and TALCB, if TREC and TALCB no longer have status as a self-directed semi-independent agency for any reason, be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent agency.

Requires that, if TREC and TALCB no longer have status as a self-directed semi-independent agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, be transferred to this state.

Provides that TREC and TALCB are governmental bodies for purposes of Chapters 551 (Open Meetings) and 552 (Public Information) and provides that TREC is a state agency for purposes of Chapters 2001 (Administrative Procedure) and 2005 (Miscellaneous Provisions Relating to State Licenses and Permits), Government Code.

Provides that employees of TREC and TALCB are members of the ERS and TREC's and TALCB's transition to independent status as provided by this bill has no effect on their membership or any benefits under that system.

Prohibits the transfer of TREC to self-directed and semi-independent status and the expiration of self-directed and semi-independent status from acting to cancel, suspend, or prevent any debt owed to or by TREC or TALCB; any fine, tax, penalty, or obligation of any party; any contract or other obligation of any party; or any action taken by TREC or TALCB in the administration or enforcement of TREC's or the TALCB's duties.

Requires TREC and TALCB to continue to have and exercise the powers and duties allocated to TREC or TALCB in TREC's or TALCB's enabling legislation, except as specifically amended by this bill.

Provides that title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by TREC or TALCB is transferred to TREC or TALCB respectively.

Requires TREC and TALCB to relocate to state-owned office space and to pay rent to this state in a reasonable amount to be determined by TFC for the use and occupancy of the office space.

Composition of the Finance Commission of Texas—S.B. 1008

by Senator Carona—House Sponsor: Representative Orr

The Finance Commission of Texas (finance commission) oversees the Texas Department of Banking (TDB), the Department of Savings and Mortgage Lending, and OCCC. Since the passage of the federal Secure and Fair Enforcement for Mortgage Licensing Act (the SAFE Act) in 2009, the individual loan originators of mortgage banks are required to be licensed. Currently, there are approximately 6,500 individually licensed mortgage bank loan originators in Texas. The number of mortgage brokers licensed in Texas peaked in 2004-2005 at over 29,000 licensees, but the number of licensed mortgage brokers licensed is now approximately 3,800. This bill:

Requires one member of the finance commission to be a banking executive, one member to be a savings executive, one member to be a consumer credit executive, one member to be a consumer credit executive, and one member to be a residential mortgage loan originator licensed under Chapter 156 (Mortgage Brokers) or 157 (Registration of Mortgage Brokers), rather than a mortgage broker.

Provides that a member of the finance commission who is a mortgage broker and who is serving on the effective date of this bill continues to serve until the expiration of the term for which the member was appointed.

Requires the governor, as soon as practicable following the expiration of the term of the member of the finance commission who is a mortgage broker or following any vacancy in that position that occurs before the expiration of the term, to make an appointment to the finance commission to achieve the composition prescribed by the bill.

Weatherization and Preparedness Reports by the Public Utility Commission—S.B. 1133

by Senator Hegar—House Sponsor: Representative Harless

On February 2, 2011, Texas faced the state's first electric grid emergency after a huge winter storm sent demand for electricity and gas soaring. Dozens of power plants that were expected to furnish power suddenly reported operating difficulties and as a result, ERCOT ordered utilities to initiate rolling blackouts. A joint hearing of the Senate Committee on Business & Commerce and the Senate Committee on Natural Resources was held in an effort to understand what caused so many power plants to report problems. This bill:

Requires PUC to analyze emergency operations plans developed by electric utilities, power generation companies, municipally owned utilities, and electric cooperatives that operate generation facilities in this state and prepare a weather emergency preparedness report on power generation weatherization preparedness.

Requires PUC, in preparing the report, to review the emergency operations plans currently on file with PUC; analyze and determine the ability of the electric grid to withstand extreme weather events in the upcoming year; consider the anticipated weather patterns for the upcoming year as forecasted by the National Weather Service or any similar state or national agency; and make recommendations on improving emergency operations plans and procedures in order to ensure the continuity of electric service.

Authorizes PUC to require an electric generation entity to file an updated emergency operations plan if it finds that an emergency operations plan on file does not contain adequate information to determine whether the electric generation entity can provide adequate electric generation services.

Requires PUC to submit the weather emergency preparedness report to the lieutenant governor, the speaker of the house of representatives, and the members of the legislature not later than September 30, 2012.

Authorizes PUC to submit subsequent weather emergency preparedness reports if PUC finds that significant changes to weatherization techniques have occurred or are necessary to protect consumers or vital services or if there have been changes to statutes or rules relating to weatherization requirements.

Enforcement Powers of the Banking Commissioner—S.B. 1165

by Senator Carona—House Sponsor: Representative Truitt

TDB regulates state-chartered banks and trust companies. The banking commissioner of the TDB (banking commissioner) is currently authorized to issue an order to prevent a person who has undertaken bad acts in the course of business from working in the field of banking. This bill:

Provides that the banking commissioner has grounds to remove or prohibit a present or former officer, director, or employee of a state bank from office or employment in, or prohibit a controlling shareholder or other person participating in the affairs of a state bank from further participation in the affairs of a state bank or any other entity chartered, registered, permitted, or licensed by the banking commissioner, if the banking commissioner determines from examination or other credible evidence that:

- the person intentionally committed or participated in the commission of an act relating to issuing a cease and desist order with regard to the affairs of a financial institution; violated a final cease and desist order issued by a state or federal regulatory agency against the person or an entity in which the person is or was an officer, director, or employee; or made, or caused to be made, false entries in the records of a financial institution;
- because of this action by the person the financial institution has suffered or will probably suffer financial loss or expense, or other damage; the interests of the depositors, creditors, or shareholders of the financial institution have been or could be prejudiced; or the person has received financial gain or other benefit by reason of the action, or likely would have if the action had not been discovered; and
- the action involves personal dishonesty on the part of the person; or demonstrates wilful, or continuing disregard for the safety or soundness of the financial institution.

Requires that a proposed removal or prohibition order on a person alleged to have committed or participated in the action and a cease and desist, removal, or prohibition emergency order, among other things, state the duration of the order, including whether the duration of the order is perpetual.

Authorizes the banking commissioner to make a removal or prohibition order perpetual or effective for a specific period of time, to probate the order, or to impose other conditions on the order.

Prohibits a person subject to a final and enforceable removal or prohibition order issued by the banking commissioner, or by another state, federal, or foreign financial institution regulatory agency, except as otherwise provided by law, without the prior written approval of the banking commission, from, among other things, serving as a director, officer, or employee of a state bank or trust company, or as a director, officer, or employee with financial responsibility of any other entity chartered, registered, permitted, or licensed by the banking commissioner under the laws of this state.

Authorizes a person who is subject to a prohibition or removal order, after the expiration of 10 years from date of issuance, regardless of the order's stated duration or date of issuance, to apply to the banking commissioner to be released from the order.

Authorizes the banking commissioner, if the banking commissioner reasonably believes that a bank, a state trust company, or other person has violated certain provisions of statute, to initiate an administrative penalty proceeding against the bank, state trust company, or other person; refer the matter to the attorney general for enforcement by injunction or other available remedy; or pursue any other action the banking commissioner considers appropriate under applicable law.

Authorizes the banking commissioner to initiate a proceeding for an administrative penalty against a bank, a state trust company, or other person by serving on the bank, state trust company, or other person, as applicable, notice of the time and place of a hearing on the penalty and sets forth provisions relating to the payment or appeal of the administrative penalty.

Authorizes the banking commissioner to release a final cease and desist order, a final order imposing an administrative penalty, or information regarding the existence of any of those orders to the public if the banking commissioner concludes that the release would enhance effective enforcement of the order.

Provides that the banking commissioner has grounds to remove or prohibit a present or former officer, director, manager, managing participant, or employee of a state trust company from office or employment in, or prohibit a controlling shareholder or participant or other person from participation in the affairs of, the state trust company or any other entity chartered, registered, permitted, or licensed by the banking commissioner if the banking commissioner determines from examination or other credible evidence that:

- the person intentionally committed or participated in the commission of an act with regard to the affairs of a financial institution; violated a final cease and desist order issued by a state or federal regulatory agency against the person or an entity in which the person is or was an officer, director, or employee; or the person made, or caused to be made, false entries in the records of a financial institution;
- because of this action by the person the financial institution has suffered or will probably suffer financial loss or expense, or other damage; the interests of the clients, depositors, creditors, or shareholders of the financial institution have been or could be prejudiced; or the person has received financial gain or other benefit by reason of the action, or likely would have if the action had not been discovered; and that action by the person involves personal dishonesty on the part of the person, or demonstrates wilful, or continuing disregard for the safety or soundness of the financial institution.

Authorizes the banking commissioner to take certain actions, including bringing an enforcement proceeding under Chapter 35 (Enforcement Actions) against a bank holding company or other person that violates or participates in a violation of Subtitle A (Banks), an agreement filed with the banking commissioner, or a rule adopted by the Finance Commission of Texas or order issued by the banking commissioner, as if the bank holding company were a Texas state bank.

Elimination of Certain Obsolete Reports by State Agencies and Institutions—S.B. 1179

by Senator Nelson—House Sponsor: Representative Harper-Brown

A recent report published by TSLAC regarding the potential elimination or reduction in frequency of reports that are required by state law to be submitted by a state agency or institution of higher education to another state agency or office identified a number of reports that could be eliminated without compromising the need of the governor and the Texas Legislature to be made aware of the activities and financial status of state government. A work group consisting of representatives from those state agencies and offices that receive the greatest number of reports from other agencies, including the offices of the governor, lieutenant governor, and speaker of the house of representatives, and the LBB, comptroller, TWC, HHSC, and THECB, evaluated those reports and found that many of the reports received by the agencies were of little or no use. This bill:

Eliminates obsolete and redundant reports required of Texas state agencies and institutions of higher education.

Authorizes state resources to be focused on providing information that is current and relevant to the governor, the legislature, and the public.

Budget of Certain Divisions Within the Texas Department of Insurance—S.B. 1291

by Senator Hegar—House Sponsor: Representative Larry Taylor

Current law requires TDI to periodically conduct examinations of insurers in order to monitor their solvency. TDI funding for the examinations function comes from general revenue through the appropriation process. TDI has found it difficult to attract and retain qualified examiners and actuaries, which has negatively impacted TDI's ability to conduct the solvency examinations required by the Insurance Code. This bill:

Requires the senior associate commissioner of the financial program to submit to the commissioner of insurance (commissioner of insurance) an annual budget of examination costs using generally accepted accounting principles.

Authorizes the budget, notwithstanding any other provision of law, to be adopted and approved only by the commissioner of insurance.

Requires the commissioner of insurance to approve a budget not later than August 31 of the year in which the associate commissioner submits the budget to the commissioner.

Prohibits the financial program from directly or indirectly causing TDI operating account to incur any examination cost.

Requires TDI to deposit any assessments or fees collected relating to the examination of insurers and other regulated entities by the financial examinations division or actuarial division, to the credit of an account with the Texas Treasury Safekeeping Trust Company (account), to be used exclusively to pay examination costs.

Requires that revenue that is not related to the examination of insurers or other regulated entities by the financial examinations division or actuarial division be deposited to the credit of the TDI operating account.

Authorizes TDI to transfer funds between the account and the TDI operating account as necessary to ensure that funds are deposited to the correct account and used for the correct purposes.

Authorizes TDI, subject to any limitations in the Insurance Code or another insurance law of this state, to set the amounts of fees required or permitted by statute or rule 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 fund the budget adopted and approved under this bill.

Authorizes the financial program to receive funds appropriated from the state to fund costs other than examination costs.

Requires that an assessment, fee, charge, or other source of revenue collected by the financial program relating to the examination of insurers and other regulated entities by the financial examinations division or actuarial division be deposited to the credit of the account for the purposes of that account.

Provides that this bill does not affect the duty of the state auditor to audit the financial program.

Requires the financial program to keep financial and statistical information as necessary to disclose completely and accurately the financial program's receipts and examination costs.

Requires the financial program to submit to the commissioner of insurance and LBB an annual report that states certain information.

Provides that employees of the actuarial division and financial examinations division are members of ERS and the transition to a self-directed budget as provided by this bill has no effect on their membership or any benefits under that system.

Requires that an assessment or fee associated with examination costs be deposited to the account.

Requires TDI, to provide a reasonable period for the financial program and to establish a self-directed budget, for the one-year period following the effective date of this bill, to continue funding the financial program within TDI using money appropriated to TDI out of the general revenue fund and to deposit to the credit of the TDI operating account all revenue relating to the examination of insurers and other regulated entities by the financial program.

Requires TDI to certify to the comptroller the amounts deposited to the credit of the operating account.

Requires the comptroller, on a finding by the comptroller that amounts deposited to the credit of the TDI operating account are sufficient to fulfill the purposes of this bill, to transfer that amount to the credit of the account.

Powers and Duties of the State Preservation Board—S.B. 1338

by Senator Eltife—House Sponsor: Representative Geren

The State Preservation Board (SPB) was created in response to increasing interest in preserving and protecting the Texas Capitol and is funded from several sources, including general revenue, funds generated from statutorily authorized enterprise operations, and donations. Two funds that are accessed by SPB help meet its responsibilities. One of those funds, the Capitol fund, is where enterprise revenue and donations are deposited. This bill:

Requires that a proposal to construct a building, monument, or other improvement in the Capitol complex be submitted to SPB for its review and comment at the earliest planning stages of any such project.

Requires that SPB, to the extent practicable, use gifts of property made to SPB for the purpose specified by the grantor and provides that SPB may refuse a gift if in SPB's judgment the purpose specified by the grantor conflicts with the goal of preserving the historic character of the buildings under SPB's control.

Authorizes SPB to transfer money from the capital renewal trust fund to any account of the Capitol fund, provided that money transferred shall only be used for the purpose of maintaining and preserving the Capitol, the General Land Office Building, their contents, and their grounds.

Authorizes SPB 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 SPB.

Powers and Duties of the Texas Historical Commission—S.B. 1518

by Senator Elife—House Sponsor: Representative Guillen

Certain statutory provisions relating to TPWD authority over certain historic properties were overlooked when the legislature transferred authority over those properties from TPWD to THC. This bill:

Entitles THC to obtain criminal history record information maintained by DPS or the identification division of the Federal Bureau of Investigation (FBI) that relates to a person who is an employee, volunteer, or intern; an applicant to be an employee, volunteer, or intern; or a contractor or subcontractor for THC.

Provides that criminal history record information obtained by THC may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

Requires THC to collect and destroy criminal history record information that relates to a person immediately after THC uses the information to make an employment or other decision related to the person or take a personnel action relating to the person who is the subject of the criminal history record information.

Prohibits THC from obtaining criminal history record information unless THC first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from obtaining employment or another position or contract with THC.

Requires that policies and procedures provide that the hiring official will determine whether the individual is qualified for employment based on factors including the specific duties of the position; the number of offenses committed by the individual; the nature and seriousness of each offense; the length of time between the offense and the employment decision; the efforts by the individual at rehabilitation; and the accuracy of the information on the individual's employment application.

Authorizes the executive director of THC to waive entrance fees and facility use fees for historic sites under THC's jurisdiction for a volunteer to assist in the accomplishment of the volunteer's service to THC.

Authorizes the executive director of THC to expend funds appropriated to THC from dedicated funding sources for the establishment of an insurance program to protect volunteers in the performance of volunteer service and recognition of the services of a volunteer or volunteer groups.

Provides that the name, address, telephone number, Social Security number, driver's license number, bank account information, or credit or charge card information of a person who purchases customer products, licenses, or services from THC does not apply to public information provisions may not be disclosed except as authorized by the disclosure of personal customer information provisions of this legislation.

Requires THC to adopt policies relating to the release of the customer information; the use of the customer information by THC; and the sale of a mailing list consisting of the names and addresses of persons who purchase customer products, licenses, or services.

Requires THC to include in its policies a method for a person by request to exclude information about the person from a mailing list sold by THC.

Allows THC to disclose customer information to a federal or state law enforcement agency if the agency provides a lawfully issued subpoena.

Provides that THC and its officers and employees are immune from civil liability for an unintentional violation.

Authorizes THC to acquire by purchase, gift, or other manner, historic sites where events occurred that represent an important aspect of the cultural, political, economic, military, or social history of the nation or state; significantly associated with the lives of outstanding historic persons or with an important event that represents a great ideal or idea; embodying the distinguishing characteristics of an architectural type that is inherently valuable for study of a period, style, or method of construction; that contribute significantly to the understanding or aboriginal humans in the nation or state; or that are of significant geologic interest relating to prehistoric animal or plant life.

Requires THC to restore and maintain each historic site acquired for the benefit of the general public and authorizes THC to enter into interagency contracts for this purpose.

Requires THC to formulate plans for the preservation and development of historic sites; conduct an archeological survey of the site; and consider the results from the survey and resources necessary to manage the site.

Authorizes THC to solicit and receive donations of land for public purposes and to refuse donations of land not acceptable for public purposes.

Authorizes THC, if ownership of the site is no longer in the best interest of THC, to transfer the title to another state commission, department, or institution requesting the site; to the donor of the land; to the United States; to the grantor; or to any legally authorized entity if the property is to be used for public purposes.

Authorizes the executive director of THC, with the approval of THC, to execute a deed exchanging or selling real property or an interest in real property if ownership of the property is no longer in the best interest of THC.

Requires THC to adopt policies to govern fund-raising activities involving a value of \$500 or more by THC employees on behalf of THC that designate the types of employees who may solicit donations; restrict where and how fund-raising may occur; and establish requirements for reports by employees to the executive director.

Authorizes the executive director of THC to negotiate, contract for, or enter into an agreement for professional services relating to a THC project, including project management, design, bid, and construction administration and construction, restoration, renovation, or preservation of any building, structure, or landscape.

Authorizes THC to contract with the Texas Transportation Commission for the construction and paving of roads in and adjacent to historic sites.

Authorizes THC to lease any land or improvement that is part of a historic site to a municipality, county, special district, nonprofit organization, or political subdivision.

Authorizes THC to lease grazing rights on any historic site and to lease from other parties grazing rights necessary for proper livestock management.

Authorizes THC to harvest and sell any timber, hay, livestock, or other product grown on any historic site and provides that timber may be harvested only for forest pest management, salvage, or habitat restoration and consistent with good forestry practices and the advice of the Texas Forest Service.

Authorizes THC to accept materials, supplies, or services instead of money as part or full payment for a sale or lease.

Requires THC, in setting the amounts of the fees for entering, reserving, or using a historic site, to establish reasonable and necessary fees for the administration of THC programs and provides that THC may not set fees in amounts that permit THC to maintain unnecessary fund balances.

Authorizes THC to sell any item in the possession of THC in which the state has title, or acquire and resell items if a profit can be made, to provide funding for programs administered by THC and to set and charge a fee for the use of a credit card to pay a fee imposed by THC in an amount reasonable and necessary to reimburse THC for the costs involved in the use of the card.

Authorizes THC to operate or grant contracts to operate concessions on the grounds of historic sites; to make rules governing the granting or operating of concessions; and to establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

Authorizes THC to provide or sell information about historic sites to the public, including books, magazines, photographs, prints, and bulletins; to enter into contractual agreements for publication of information concerning historic sites; to receive royalties on THC-owned materials that are sold or supplied to others by THC for publication and requires that money received be deposited in the state treasury to the credit of the account from which expenses for the publication were paid.

Requires that THC deposit to the credit of the historic site account all revenue, less allowable costs.

Requires that any funds deposited in the state treasury by the THC by mistake of fact or mistake of law be refunded by warrant issued against the fund and credited against the account in the state treasury into which the money was deposited.

Authorizes the comptroller to require written evidence from the executive director of THC to indicate the reason for the mistake of fact or law before issuing the refund.

Authorizes THC to apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program involving the planning, acquisition, and development of historic sites and structures.

Authorizes THC to contract with the United States to plan, acquire, and develop historic sites and structures in conformity with any federal act concerning the development of historic sites and structures.

Requires THC to keep financial and other records relating to programs and to furnish to appropriate officials and agencies of the United States and of this state all reports and information reasonably necessary for the administration of the programs.

Requires that the operation, maintenance, and improvement of historic sites be financed from the general revenue fund, the historic site account, other accounts that may be authorized by law, and donations, grants, and gifts received by THC for these purposes.

Provides that a donation, grant, or gift accruing to the state or received by THC for the purpose of operating, maintaining, improving, or developing historic sites may not be used for any purpose other than the operation, maintenance, or developing of historic sites.

Authorizes THC to adopt rules governing the health, safety, and protection of persons and property in historic sites under the control of THC, including public water within historic sites.

Requires that all specific or general rules applying to a historic site be posted in a conspicuous place at the site.

Establishes that any person directly or indirectly responsible for disruptive, destructive, or violent conduct that endangers property or the health, safety, or lives of persons or animals may be removed from a historic site for a period not to exceed 48 hours.

Provides that rules adopted by THC may be enforced by any peace officer; a rule adopted by THC does not amend or repeal any penal law of this state; and a person who violates a rule commits an offense that is a Class C misdemeanor.

Establishes that THC is not required to comply with management-to-staff ratio requirements with respect to employees located in field-based operations.

Provides that the provisions regarding building construction and acquisition in the Government Code to not apply to a project constructed by and for THC.

Composition of Texas House of Representative Districts—H.B. 150*by Representative Solomons—Senate Sponsor: Senator Seliger*

The Texas Legislature is required to redistrict Texas House of Representatives districts in the first regular session following publication of the United States decennial census. The United States Supreme Court has ruled that under the Equal Protection Clause of the 14th Amendment of the United States Constitution, these districts must be substantially equal in population. This is sometimes referred to as the one-person, one-vote principle. Based on the 2010 federal census, the total population of Texas is 25,145,561, and the ideal population of a Texas House of Representatives district is 167,637. This bill:

Sets forth the composition of the 150 districts for the election of members of the Texas House of Representatives.

A map setting forth the districts designated under H.B. 150 may be accessed at <http://gis1.tlc.state.tx.us/?PlanHeader=PLANh283>.

Cancellation of Voter Registration and Eligibility to Vote—H.B. 174*by Representative Jim Jackson et al.—Senate Sponsor: Senator Duncan*

A qualified voter is defined as a United States citizen but current law does not provide a method for verifying and enforcing the requirements to vote or standardized procedures for removing a deceased person or a person ineligible to vote from a voter registration list. This bill:

Requires the local registrar of deaths to file each abstract with the voter registrar of the decedent's county of residence and SOS not later than the 10th day of the month following the month in which the abstract is prepared.

Requires the clerk of each court to file each abstract with the voter registrar and SOS not later than the 10th day of the month following the month on which the abstract is prepared.

Requires SOS to quarterly obtain from the United States Social Security Administration available information specified by SOS relating to deceased residents of the state.

Requires the voter registrar to cancel a voter's registration immediately if the registrar receives notice from SOS that the voter is deceased.

Requires SOS to quarterly compare the information received regarding deaths and noncitizens to the statewide computerized voter registration list.

Requires SOS, if SOS determines that a voter on the registration list is deceased or has been excused or disqualified from jury service because the voter is not a citizen, to send notice of the determination to the voter registrar of the counties considered appropriate by SOS.

Requires that the jury summons questionnaire notify a person that if the person states that the person is not a citizen, the person will no longer be eligible to vote if the person fails to provide proof of citizenship.

Provides that if a summons for jury duty allows a person to claim a disqualification of exemption based on the lack of citizenship, the person will no longer be eligible to vote if the person fails to provide proof of citizenship.

Requires the clerk of the court, on the third business day of each month, to send a copy of the list of persons excused or disqualified because of citizenship in the previous month to the voter registrar of the county, SOS, and

the county or district attorney, as applicable, for an investigation of whether the person committed an offense of making a false statement under the Election Code or other law.

Cancellation of Special Elections—H.B. 184

by Representative Johnson—Senate Sponsor: Senator West

The Election Code allows SOS to declare and certify an unopposed candidate elected to fill a vacancy in the House of Representatives or the Senate, but the Election Code does not specify when this must happen. This bill:

Requires SOS 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.

Requires that the declaration be made on the second day after the last date an application for a place on the special election ballot may be filed or the date of a withdrawal, death, or final judgment of ineligibility of a candidate that causes the remaining candidate to be unopposed.

Provides that the election is not held after a declaration is made regarding the unopposed candidate.

Ballot Language for Tax Issues and Issuance of Bonds—H.B. 360

by Representatives Jim Jackson and Isaac—Senate Sponsor: Senator Duncan

Currently, a local taxing entity may write proposed ballot language for a proposition to issue bonds or impose or increase a tax that obscures the intended use for the additional funding being requested. This bill:

Requires that a proposition submitted to the voters for approval of the issuance of bonds or the imposition, increase, or reduction of a tax specifically state the total principal amount of the bonds to be authorized and a general description of the purposes for which the bonds are to be authorized, the amount of or maximum tax rate of the tax or tax increase for which approval is sought, or the amount of tax rate reduction or the tax rate for which approval is sought.

Composition of State Board of Education Districts—H.B. 600

by Representative Solomons—Senate Sponsor: Senator Seliger

The Texas Legislature is required to redistrict state senate and house districts in the first regular session following publication of the United States decennial census. Though no Texas constitutional or statutory provisions govern State Board of Education (SBOE) redistricting, as a practical matter the legislature also must draw districts for the SBOE before the candidates' filing period opens for the primary elections held in 2012. The United States Supreme Court has ruled that under the Equal Protection Clause of the 14th Amendment of the United States Constitution these districts must be substantially equal in population. This is sometimes referred to as the one-person, one-vote principle. Based on the 2010 federal census, the total population of Texas is 25,145,561, and the ideal population of an SBOE district is 1,676,371. This bill:

Sets forth the composition of the 15 districts for the election of members of SBOE.

A map setting forth the districts designated under H.B. 600 may be accessed at <http://gis1.tlc.state.tx.us/?PlanHeader=PLANE120>.

Application to Run for Political Office—H.B. 1135*by Representative Aycock—Senate Sponsor: Senator Fraser*

A candidate may correct an error or improper filing procedure by submitting a new application or petition before the filing deadline, but it is unclear whether an application or petition may be amended by the candidate and accepted by the authority with whom the application is filed after the filing deadline for the application. This bill:

Prohibits a candidate, after the filing deadline, from amending an application and the authority with whom the application is filed from accepting an amendment to an application.

Prohibits a candidate, after the filing deadline, from amending a petition in lieu of a filing fee submitted with the candidate's application and the authority with whom the application is filed from accepting an amendment to a petition in lieu of a filing fee submitted with the candidate's application.

Notice Regarding Certain Election Activities—H.B. 1136*by Representative Aycock—Senate Sponsor: Senator Fraser*

Election authorities may sometimes fail to notify the county chair of each political party about the meetings called by the election authority to discuss business relating to upcoming elections. This bill:

Requires a county election officer of each county to hold a meeting with the county chair of each political party to discuss, as appropriate, the lists provided by each political party relating to election officers for state and county elections and early voting polling places and implementation.

Requires a county election officer of each county to deliver written notice of the time and place of the meeting not later than 72 hours before the meeting date to the county chair of each political party that made nominations by primary election for the general election for state and county officers preceding the date of the meeting.

Authorizes the notice to be delivered by United States mail, electronic mail, or other method of written communication, as determined by the county election officer.

Deferred Adjudication and Eligibility to Vote—H.B. 1226*by Representative Dutton—Senate Sponsor: Senator Ellis*

Because the Election Code describes a qualified voter as a person who has not been finally convicted of a felony, it is unclear whether a person who has received deferred adjudication has the right to vote. This bill:

Defines a "qualified voter as a person who has not been finally convicted of a felony and establishes in the Election Code that a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

Local Option Elections in Annexed Areas—H.B. 1401*by Representative Laubenberg—Senate Sponsor: Senator Estes*

A local option election is an election held by order of the county commissioners court on proper petition by the voters of a county, justice precinct, or municipality to determine whether the sale of alcoholic beverages should be prohibited or legalized. Under current law, it is not clear whether newly annexed citizens are allowed to vote in a

local option election that takes place after the political subdivision where the election is to be held annexes a neighboring political subdivision in between the time the petition is filed and the time the election occurs. This bill:

Authorizes 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 to order an election, based on the number of qualified voters in the municipality, including the annexed area.

Requires the qualified voters of the annexed area to be allowed to vote in the local option election.

Requires that the results of the election determine the local option status of the municipality, including the annexed area.

Qualifications of Special Peace Officers at Polling Places—H.B. 1503

by Representative White et al.—Senate Sponsor: Senator Nichols

The presiding judge in an election precinct is responsible for the management and conduct of the election, including selecting the appointment of special peace officers, but there are no qualifications regarding who can serve as a special peace officer. This bill:

Provides that a person is eligible for appointment as a special peace officer only if the person is licensed as a peace officer by the Texas Commission on Law Enforcement Officer Standards and Education.

Consolidation of Precincts in a Primary Election—H.B. 1528

by Representative Sid Miller—Senate Sponsor: Senator Fraser

Section 42.009 (Consolidation of Precincts in Primary Election), Election Code, authorizes the county executive committee of a political party holding a primary election to order two or more county election precincts consolidated into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct and at least one consolidated precinct is situated wholly within each commissioners precinct. This bill:

Removes the requirement that at least one consolidated precinct be situated wholly within each commissioners precinct.

Authority of Subdivisions to Change the Date of General Elections—H.B. 1545

by Representative Lewis—Senate Sponsor: Senator Watson

Current law permits municipalities and certain other political subdivisions to move their elections to align with the November general election. In 2009, the deadline for a governing body to change the date on which it holds its general election for officers to the November uniform election date was changed from December 31, 2005, to December 31, 2010.

Cities are required to hold council elections only on the spring uniform election date if the city has a population over 450,000 and the entire council is elected at large, the independent school district or community college service area is largely the same as the city limits, and the transit authority primarily serves the city with a population over 450,000 and council elected at large. This bill:

Deletes the provision that the governing body of a political subdivision other than a county may, not later than December 31, 2005, change the date on which it holds its general election for officers to another authorized uniform election date.

Provides that the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2012, rather than 2010, change the date on which it holds its general election for officers to the November uniform election date.

Training for Deputy Voter Registrars—H.B. 1570

by Representatives Murphy and Sarah Davis—Senate Sponsor: Senator Williams

In order to serve as a volunteer deputy voter registrar, a person must be at least 18 years of age and not have been finally convicted of a felony or, if so convicted, must have either fully discharged the person's sentence or been pardoned. This bill:

Prohibits a deputy registrar from assisting in the registration of voters until the deputy registrar has completed training developed in the Election Code.

Requires the voter registrar to provide information about the time and places at which training is offered.

Prohibits a volunteer deputy registrar from receiving another person's registration application until the deputy registrar has completed training.

Requires the secretary of state to adopt standards of training 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.

Provides that the training standards may include the passage of an examination at the end of the training program.

Candidate E-mail Addresses on Ballot Applications—H.B. 1593

by Representative Isaac—Senate Sponsor: Senator Huffman

There is currently no space on an application for a place on a ballot for a candidate to provide an e-mail address. This bill:

Requires that each official form for an application that a candidate is required to file include spaces for the candidate's home and office telephone numbers and e-mail address and a statement informing candidates that the furnishing of the telephone numbers or e-mail address is optional.

Employment of an Elections Administrator—H.B. 1678

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

Under current law, a county or joint election commission's proceedings are not subject to open meetings requirements and may meet privately with no notice of its agenda and no report of its deliberations. This bill:

Provides that meetings of the county election commission are subject to the provisions of Chapter 551 (Open Meetings), Government Code.

Requires that the county elections commission provide personal written notice of a commission meeting to the county elections administrator at least 72 hours before the scheduled time of the meeting.

State Funds for Primary Elections—H.B. 1789

by Representative Farias—Senate Sponsor: Senator Van de Putte

Currently, state funds may be used to pay expenses incurred by a political party in connection with a primary election. SOS is responsible for reviewing and approving payment of estimated expenses for the primary election to the county chair of each party. The county is reimbursed by the county chair for the costs incurred for the primary elections, which typically are conducted by a county election officer. This bill:

Authorizes SOS, 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.

Requires SOS to prescribe procedures to implement this section of the Election Code.

Write-in Candidates for County or Precinct Chair—H.B. 1904

by Representatives Sheffield and Isaac—Senate Sponsor: Senator Estes

Currently, a declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 62nd day before the general primary election day. If a candidate whose name is to appear on the ballot for the office of county chair or precinct chair dies or is declared ineligible after the third day before the date of the regular filing deadline prescribed by this subsection, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5:00 p.m. of the 59th day before election day. This causes the write-in deadline to float between December 29 and January 6 and the write-in deadline sometimes coincides with the regular January 2 deadline. This bill:

Requires that a declaration of write-in candidacy be filed not later than 6:00 p.m. of the fifth day after the date of the regular filing deadline for the general primary election.

Uniform Election Dates and Incorporated Municipalities—H.B. 2144

by Representative Garza—Senate Sponsor: Senator Uresti

Provisions in the Election Code provide for uniform elections dates that may require newly incorporated municipalities to wait until the next general election date to elect an initial city council, leaving the municipality without a local government for many months. This bill:

Exempts the initial election of the members of the governing body of a newly incorporated city from the provisions regarding election dates provided in the Election Code.

Authorizes the governing body of a newly incorporated city to, not later than the second anniversary of the date of incorporation, change the date on which it holds its general election for officers to another authorized uniform election date.

Authorizes the governing body of a city that was newly incorporated between January 1, 2007, and September 1, 2011, to change the date on which it holds its general election for officers to another authorized uniform election date, expiring September 1, 2013.

Requires a newly incorporated municipality to select, not later than the first anniversary of the date of its incorporation, a uniform election date to use for the general election of the members of the municipality's governing body.

Election Practices and Procedures—H.B. 2194

by Representative Larry Taylor—Senate Sponsor: Senator Jackson

The Election Code provides that election registrars may appoint one or more deputy registrars to assist in the registration of voters and sets out voter qualifications and registration requirements. This bill:

Authorizes the registrar to appoint one or more deputy registrars who meet the requirements to be a qualified voter but are not required to be a registered voter.

Provides that a person commits an offense if the person compensates another person based on the number of voter registrations that the other person successfully facilitates; presents another person with a quota of voter registrations to facilitate as a condition of payment of employment; engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voter registrations that the other person facilitates; or accepts compensation for any of these activities.

Provides that an offense is a Class A misdemeanor and that an officer, director, or other agent of an entity that commits an offense is punishable for the offense.

Provides that a volunteer deputy registrar must meet the requirements to be a qualified voter but is not required to be a registered voter.

Requires SOS to implement a countywide polling place program (program) to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for each election held on the uniform election date in May.

Authorizes SOS to select to participate in the program six, rather than three, counties with a population of 100,000 or more and four, rather than two, counties with a populations of less than 100,000.

Provides that each county that previously participated in a program continues to participate if the commissioners court approves participation and SOS determines the county's participation in the program was successful.

Requires that a form for an affidavit executed for a provisional ballot include a space for an election officer to indicate whether the person presented a form of identification.

Removes the "registration omissions list" from the precinct election records that the presiding judge must assemble and place them in the appropriate envelopes and ballot boxes for distribution.

Requires that unofficial election results be released as soon as they are available after the polls close.

Authorizes the presiding judge of the central counting station, in cooperation with the county clerk, to withhold the release of unofficial election results until the last voter has voted.

Requires that the biennial state convention be convened on any day in June or July, rather than only June.

Establishes that provisions in the Government Code regarding degrees of relationship and nepotism prohibitions applicable to a public official do not apply to an appointment of an election clerk who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

Direct Campaign Expenditures—H.B. 2359

by Representative Hopson—Senate Sponsor: Senator Williams

A corporate direct campaign expenditure includes a campaign expenditure made by for-profit or nonprofit corporations that do not constitute a campaign contributions by the person making the expenditure. It is currently unclear whether the Texas prohibition of corporate direct campaign expenditures is unconstitutional in light of the United States Supreme Court's decision in *Citizens United v. Federal Election Commission*. This bill:

Strikes "political expenditure" from the provision that a corporation or labor organization may not make political contribution or political expenditure that is not authorized and may not make a political contribution or political expenditure in connection with a recall election, including the circulation and submission of a petition to call an election.

Removes from the required contents of a political finance report the full name and address of each individual acting as a campaign treasurer of a political committee from whom the candidate received notice.

Creates Subchapter J (Reporting by Certain Persons Making Direct Campaign Expenditures) of Chapter 254 (Political Reporting) in the Election Code.

Requires a person not acting in concert with another person who makes one or more direct campaign expenditures in an election from the person's own property to comply with political reporting requirements in the Election Code if the person were the campaign treasurer of a general-purpose committee that does not file monthly reports.

Establishes that a person is not required to file a report if the person is required to disclose the expenditure in another report within the time applicable for reporting the expenditure.

Establishes that a general-purpose committee that files under the monthly reporting schedule is not required to file reports under the additional reports provisions of the Election Code.

Establishes that a person is not required to file a campaign treasurer appointment for making expenditures for which reporting is required unless the person is otherwise required to file a campaign treasurer appointment.

Establishes that a direct campaign expenditure consisting of personal travel expenses incurred by a person may be made without complying with Section 254.154 (Direct Campaign Expenditure Exceeding \$100), Election Code, created by this bill.

Procedures for Voting Ballots by Mail—H.B. 2449

by Representative Aliseda et al.—Senator Sponsor: Senator Hegar

When conducting election fraud investigations relating to vote harvesting, the investigating authority must find a certain number of ballots in the possession of a vote harvester at one time in order to charge the person with a certain offense. This bill:

Provides that when ballots or carrier envelopes are obtained in violation of the provisions of the Election Code pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct

may be considered as one offense and the number of ballots or carrier envelopes aggregated in determining the grade of the offense.

Provides that a copy of an application for a ballot to be voted by mail 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.

Bilingual Election Materials—H.B. 2477

by Representative Harless—Senate Sponsor: Senator Ellis

The Election Code requires SOS to prepare a Spanish translation to election material, including instruction posters, ballots, and materials furnished to voters in connection with early voting by mail.

In order to comply with the federal Voting Rights Act, Harris County must provide translation of voter registration and ballot materials into Spanish and Vietnamese, and as a result of the 2010 census, Harris County may also be required to translate election materials into Mandarin Chinese.

As counties other than Harris County become more diverse and are required to provide translated election materials in languages other than English and Spanish, allowing SOS to prepare the translations would ensure consistency across the state so that translations are not different from one jurisdiction to another. This bill:

Requires SOS to include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census and makes conforming changes throughout the Election Code.

Provides that if the director of the census determines that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish, to the extent applicable.

Requires SOS to prepare the translation for election materials required to be provided in a language other than English or Spanish for the voter registration application form, the confirmation form, the voting instruction poster, the statement of residence form, the provisional ballot affidavit, the application for a ballot by mail, the carrier envelope and voting instructions, and any other voter forms that SOS identifies as frequently used and for which state resources are otherwise available.

Election Practices and Procedures—H.B. 2817

by Representative Larry Taylor—Senate Sponsor: Senator Duncan

The Elections Code applies to all general, special, and primary elections held in this state and supersedes a conflicting statute outside that code unless that code or the outside statute expressly provides otherwise. This bill:

Strikes the provision that the notice of a general or special election must state the location of each early voting polling place.

Provides that to be eligible for appointment as a volunteer deputy registrar, a person must not have been finally convicted of an offense of fraudulent use or possession of identifying information under the Penal Code.

Requires the registrar, not later than the 30th day after the day of the primary, runoff primary, or general election or any special election, to electronically submit to SOS the record of each voter participating in the election.

Provides that documents regarding a complaint alleging criminal conduct in connection with an election are not considered public information until the Office of the Attorney General (OAG) has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

Establishes that a contract between a county election officer and the county executive committee of a political party holding a primary election to perform election services no longer has to be approved in writing by SOS.

Establishes that if contracting parties are unable to reach an agreement, SOS is no longer required to prescribe terms that the administrator must accept or instruct the administrator to decline to enter into a contract.

Sets forth procedures for the selection of the presiding election judge and alternate presiding judge for an election precinct, particularly when candidates for governor of two political parties receive the same number of votes in the precinct.

Requires that a certificate of appointment as an election watcher to observe the conduct of an election contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher.

Provides that a watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device.

Requires that precinct election records be preserved by the authority to whom they are distributed in an election involving a federal officer for at least 22 months after election day in accordance with federal law or, in an election not involving a federal office, for at least six months after election day.

Requires SOS, for the preservation of precinct election records in an election involving a federal office, to instruct the affected authorities on the actions necessary to comply with federal law.

Requires that an application be submitted to the early voting clerk by mail, common or contract carrier, or telephone facsimile machine, if a machine is available to the clerk's office.

Requires that the election order and the election notice state the location of the main, rather than each, early voting polling place.

Requires that each custodian of sealed ballot boxes retain possession of the key entrusted to the custodian until it is delivered to the presiding election judge of the central counting station.

Requires the early voting clerk to deliver to the early voting ballot board in an election in which regular paper ballots are used for early voting by personal appearance, each ballot box containing the early voting ballots voted by personal appearance and the clerk's key to each box; the jacket envelopes containing the early voting ballots voted by mail, regardless of the ballot type or voting system used; a ballot transmittal form that includes a statement of the number of early voting ballots voted by mail, regardless of the ballot type or voting system used, that are delivered to the early voting ballot board, and in an election in which regular paper ballots are used for early voting by personal appearance

Authorizes the voting clerk to deliver materials to the early voting ballot board through electronic means if ballot materials and ballot applications are recorded electronically.

Provides that election materials in which paper ballots are used for early voting by personal appearance or by mail may be delivered to the board between the end of the period for early voting and the closing of the polls on election day.

Authorizes ballots voted by mail that are to be automatically counted by tabulating equipment to be delivered between the end of the period for early voting and the closing of the polls on election day.

Authorizes the signature verification committee to use an electronic copy of a carrier envelope certificate or the voter's ballot application in making the comparison if ballot materials or ballot applications are recorded electronically.

Authorizes the early voting clerk to electronically record applications for a ballot to be voted by mail, jack envelopes, carrier envelopes, and ballots.

Allows SOS to adopt rules providing requirements for the electronic image quality and storage of the electronic images of the documents.

Designates SOS as the state coordinator between military and overseas voters and county election officials and requires a county election official to cooperate with SOS to ensure that military and overseas voters time receive accurate balloting materials that a voter is able to cast in time for the election and otherwise comply with the federal Military and Overseas Voter Empowerment Act.

Provides that after changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if the person is registered to vote in the county of former residence at the time the person submitted a voter registration application in the county of new residence.

Requires that the plan for the central counting station established and implemented by the counting station manager address the process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election.

Establishes that the plans for counting station operation in the Election Code do not apply to the tabulation of electronic voting system results for a voting system that uses direct recording electronic voting machines.

Requires the general custodian of election records to adopt procedures for testing that verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted.

Requires the authority with whom an application for a place on the ballot must be filed post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before the first day on which a candidate may file the application or the last day on which a candidate may file the application, exempting an office filled at the general election for state and county officers.

Requires that a withdrawal request be timely filed with the appropriate authority or an agent of an authority only as expressly provided by the Election Code or the withdrawal request will have no legal effect and not be considered filed.

Provides that all procedures adhered to for names of deceased or ineligible candidates that appear on a ballot apply to the name of a withdrawn candidate whose name appears on the ballot.

Prohibits a candidate from withdrawing from an election after 5 p.m. of the third day after the deadline for filing the candidate's application for a place on the ballot.

Requires that the name of the candidate be omitted from a ballot if the candidate withdraws or is declared ineligible within certain times prescribed in Section 145 (Withdrawal, Death, and Ineligibility of Candidate) of the Election Code.

Prohibits a candidate from withdrawing from the general primary election after the first day after the deadline for filing the candidate's application for a place on the general primary election ballot.

Requires that the name of the candidate be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible after the 62nd day before the general primary election day.

Authorizes precinct conventions to be held in the regular county election precincts or general primary election day and a date determined by the county executive committee that occurs not later than the fifth day after the date of the general primary election.

Requires that if precinct conventions are held on a day other than general primary election day, the county executive committee set the hour for convening or a time frame in which the conventions must convene.

Establishes that no device capable of recording images or sound is allowed inside the room in which a recount is conducted unless the person entitled to be present at the recount agrees to disable or deactivate the device.

Requires that a candidate file the petition for recount not later than the 10th day after the date the official result is determined in a contest of a primary or runoff primary election or general or special election.

Requires the TEC, not later than June 1 of each odd-numbered year, to make a written certification of the population of each judicial district for which a candidate for judge or justice must file a campaign treasurer appointment with TEC.

Establishes that a "political subdivision" includes a justice precinct.

Requires that the notice regarding a petition for a local option election include the individual or entity that is applying for the petition to gather signatures for a local option liquor election; the type of local option liquor election; the name of the political subdivision in which the petition will be circulated; and the name and title of the person with whom the application will be filed.

Election of Commissioners in Certain Municipalities—H.B. 2920

by Representatives Reynolds and Zerwas—Senate Sponsor: Senator Hegar

There is no provision in the Local Government Code allowing a Type C general law municipality to adopt by ordinance the manner in which it elects its officials and with the mayor and commissioners eligible for election on the same uniform election day in May every even-numbered year, the city can experience a complete turnover of its elected officials in one year. This bill:

Authorizes the governing body of a Type C general law city with a population of over 100,000 residents to adopt an ordinance to determine whether commissioners may be elected in alternative years or in the same election year, with elections held on an authorized uniform election date.

Transfer of Records to a New County Chair of a Political Party—H.B. 2959

by Representative Price—Senate Sponsor: Senator Fraser

A former county chair for a political party is required to transfer certain records in the possession of the former county chair to the newly elected county chair, but there is no mechanism for enforcement or penalty for failure to comply. This bill:

Provides that a person commits a Class C misdemeanor offense if the person fails to transfer local party bank accounts, precinct chair and county chair canvass results, candidate applications, paperwork related to the primary election, and other documents concerning party affairs.

Amendments to Reports of Political Contributions and Expenditures—H.B. 3093*by Representative Lewis—Senate Sponsor: Senator Duncan*

Currently, a candidate who files a late or incomplete campaign finance report may be subject to certain criminal misdemeanor charges or civil penalties. This bill:

Authorizes a person who files a semiannual report to amend the report.

Provides that a semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

Provides that a semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if the amendment is made before any complaint is filed regarding the amendment and the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Provides that a person does not commit an offense for failing to include information that is required in a report if the person amended the report before the eighth day after the date the original report was filed or on after the eighth day after the original report was filed if the amendment is made before any complaint is filed regarding the amendment and the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Candidates for State or County Party Chair—H.B. 3270*by Representative Veasey—Senate Sponsor: Senator Deuell*

It is unclear whether candidates for party offices should be included on the list required to be sent to the state party chair, which can result in incomplete lists of candidates and a less efficient electoral process. This bill:

Requires the state chair and each county chair, for each general primary election, to prepare a list containing the name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party.

Lobbying Activities—H.B. 3409*by Representative Kolkhorst—Senate Sponsor: Senator Williams*

During the final months and weeks of a legislative session, lobbyists are often hired to help or hinder the passage of particular bills. Because lobbyists are required to file activity reports with TEC on a monthly basis, a lobbyist may work for a new client for only a few weeks without publicly acknowledging that lobbying activity. This bill:

Provides that if there is a change in the information required to be reported by a registered lobbyist, the registrant is required to file an amended registration reflecting the change with TEC not later than the date on which an amended registration is due or the next report is due.

Establishes that amended registration provisions apply only during the period beginning on the date a regular legislative session convenes and continuing through the date of final adjournment.

Requires a registrant to file an amended registration with TEC 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 in the subject matter about which the registrant has communicated directly with a member of the legislature or executive branch.

Requires that the amended registration be written and verified and contain the information required by the provisions of registration of lobbyists provided in the Government Code.

Requires that the registrant file the amended registration no later than the fifth day after the date on which the registrant, any person the registrant retains or employs to appear on the registrant's behalf, or any other person appearing on the registrant's behalf makes the first direct communication with a member of the legislative or executive branch on behalf of a person or about any subject matter not included in the registrant's registration or last activity report.

Establishes that expenditures required to be reported are the expenditures described in the reporting provisions relating to lobbyists provided in the Government Code.

Requires TEC to make available on its website an amended registration not later than the next business day after the date the amended registration is filed.

Deadline for Tradition Municipal Utility District No. 2 Confirmation Election—H.B. 3840

by Representative Parker—Senate Sponsor: Senator Nelson

The Tradition Municipal Utility District No. 2 of Denton County was recently created by the legislature but the district territory currently remains undeveloped. This bill:

Extends 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 to September 1, 2015.

Extends the date on which statutory provisions relating to the district expire if the creation of the district is not confirmed at such an election to September 1, 2018.

Establishes provisions relating to the appointment of temporary directors prior to the election of initial directors.

Requirements to Vote and Voter Identification—S.B. 14

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

Under current law, to vote a regular ballot, voters are only required to present a voter registration certificate to a poll worker. There are currently no statutory standards requiring verification of the identity of individuals at the polling place when they present a voter registration certificate. This bill:

Requires an applicant who wishes to receive an exemption from the requirements of provisions in the Election Code to include with the person's application a written document from the United States (U.S.) Social Security Administration evidencing the applicant has been determined to have a disability or from the U.S. Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent and a statement prescribed by SOS that the applicant does not have an acceptable form of identification.

Requires that a certificate issued to a voter who meets the certification requirements contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

Requires the voter registrar of each county to provide notice of the identification requirements for voting and a detailed description of those requirements with each voter registration certificate or renewal registration certificate.

Requires SOS to prescribe the wording of the notice to be included on the certificate.

Requires SOS and the voter registrar of each county that maintains a website to provide notice of the identification requirements for voting on each entity's respective website in each language in which voter registration materials are available.

Requires SOS to conduct a statewide effort to educate voters regarding the identification requirements for voting.

Requires the county clerk of each county to post in a prominent location at the clerk's office a physical copy of the notice in each language in which voter registration materials are available.

Requires that the training standards for election officers include provisions on the acceptance and handling of the identification presented by a voter to an election officer.

Requires each election clerk to complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer.

Requires the presiding judge to post in a prominent place on the outside of each polling location a list of the acceptable forms of identification and requires that the list be printed in at least a 24-point font and be posted separately from any other notice required by state or federal law.

Requires a voter to present to an election officer at the polling place one form of identification.

Requires an election officer, on presentation of the required documentation, to determine whether the voter's name on the documentation is on the list of registered voters for the precinct.

Requires that the voter, if the election officer determines that the voter's name on the documentation is substantially similar to but does not match exactly with the name on the list, be accepted for voting if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

Requires that the voter, if the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation, be accepted for voting.

Authorizes that the voter be accepted for provisional voting only if the requirements for identification are not met.

Provides that for a voter who is not accepted for voting, an election officer shall inform the voter of the voter's right to cast a provisional ballot and provide the voter with written information that lists the requirements for identification; states the procedure for presenting identification; includes a map of the location where identification must be presented; and includes notice that if all procedures are followed and the voter is found to be eligible to vote and is voting in the correct precinct, the voter's provisional ballot will be accepted.

Establishes that the requirements for identification do not apply to a voter who is disabled and presents the voter's voter registration certificate containing the indication of disability on offering to vote.

Requires the election officer, if the voter's address is omitted from the precinct list, to ask the voter if the voter's residence listed on identification presented by the voter is current and whether the voter has changed residence within the county.

Requires an election officer to distribute written notice of the identification that will be required for voting beginning with elections held after January 1, 2012, and information on obtaining identification without a fee to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter beginning with those elections.

Requires SOS to prescribe the wording of the notice and establish guidelines for distributing the notice.

Requires that a voter who presents the required documentation but whose name is not on the precinct list of registered voters be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote or in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit state that the voter is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct; was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar; did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and is voting only once in the election.

Requires the election officer, after the voter is accepted, to enter the voter's name on the registration omissions list.

Establishes that the following documentation is an acceptable form of photo identification: a driver's license, election identification certificate, or personal identification card issued to the person by DPS that has not expired or that expired no earlier than 60 days before the date of presentation; a U.S. 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; U.S. citizenship certificate that contains the person's photograph; a U.S. passport 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.

Requires that the affidavit required for a provisional ballot be printed on an envelope in which the provisional ballot may be placed and include a space for an election officer to indicate whether the person presented an appropriate form of identification.

Provides that an offense is a second degree felony unless the person is convicted of an attempt, in which case, the offense is a state jail felony.

Provides that a provisional ballot shall be accepted if the county election board determines that the person meets the identification requirements at the time the ballot was cast or within six days after the election; executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements as a result of a natural disaster that was declared by the president of the U.S. or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification.

Authorizes a voter who is accepted for provisional voting because the voter does not meet the identification requirements to, not later than the sixth day after the election, present a form of identification to the voter registrar for examination or execute an affidavit in the presence of the voter registrar.

Requires DPS to issue an election identification certificate to a person who states that the person is obtaining the certificate for the purpose of voting and does not have another form of identification and who is a registered voter in this state and presents a valid voter registration certificate; or who is eligible for registration and submits a registration application to DPS.

Prohibits DPS from collecting a fee for an election identification certificate or a duplicate election identification certificate.

Prohibits an election identification certificate from being used or accepted as a personal identification certificate.

Provides that an election officer may not deny the holder of an election identification certificate the ability to vote because the holder has an election identification certificate rather than a driver's license or personal identification certificate.

Provides that an election identification certificate must be similar in form to, but distinguishable in color from, a driver's license and a personal identification certificate and authorizes DPS to cooperate with SOS in developing the form and appearance of an election identification certificate.

Authorizes DPS to require each applicant for an original or renewal election identification certificate to furnish to DPS the required information.

Authorizes DPS to cancel and require surrender of an election identification certificate after determining that the holder was not entitled to the certificate or gave incorrect or incomplete information in the application for the certificate.

Establishes that a certificate expires on a date specified by DPS, except that a certificate issued to a person 70 years of age or older does not expire.

Composition of Texas Senate Districts—S.B. 31

by Senator Seliger—House Sponsor: Representative Solomons

The Texas Legislature is required to redistrict Texas Senate districts in the first regular session following publication of the United States decennial census. The United States Supreme Court has ruled that under the Equal Protection Clause of the 14th Amendment of the United States Constitution, these districts must be substantially equal in population. This is sometimes referred to as the one-person, one-vote principle. Based on the 2010 federal census, the total population of Texas is 25,145,561, and the ideal population of a Texas Senate district is 811,147. This bill:

Sets forth the composition of the 31 districts for the election of members of the Texas Senate.

A map setting forth the districts designated under S.B. 31 may be accessed at <http://gis1.tlc.state.tx.us/?PlanHeader=PLANS148>.

Implementation of the Federal Military and Overseas Voter Empowerment Act—S.B. 100

by Senator Van de Putte—House Sponsor: Representative Van Taylor

The federal government passed the Military and Overseas Voter Empowerment (MOVE) Act in the fall of 2009, which changes the way military and overseas voters register and vote in federal elections. The MOVE Act also facilitates the voting process for military and overseas voters by requiring ballots to be transmitted no later than 45 days before an election for federal office.

The Federal Post Card Application (FPCA) is a form provided by federal law to permit members of the United States (U.S.) armed forces and merchant marines, their dependents, and U.S. citizens abroad to request a ballot to vote early by mail and to permanently register to vote. Individuals eligible to vote early with an FPCA must be qualified to

vote in Texas and be a member of the U.S. armed forces or merchant marines or the spouse or a dependent of a member or a U.S. citizen domiciled in Texas but temporarily living outside the territorial limits of the U.S. This bill:

Defines "federal" and "federal post card application (FPCA) registrant."

Requires that for each FPCA registrant accepted to vote, a notation be made beside the voter's name on the early voting poll list indicating that the voter is an FPCA registrant.

Requires that the entry on the early voting roster pertaining to a voter who is an FPCA registrant include a notation indicating that the voter is an FPCA registrant and requires that the early voting clerk note on the early voting by mail roster each e-mail of a ballot.

Provides that a person to whom a ballot is provided is not required to be included on the precinct early voting list if the person is an FPCA registrant.

Designates SOS as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the Uniformed Overseas Citizens Absentee Voting (UOCAV) Act.

Designates SOS as the state coordinator between military and overseas voters and county election officials.

Requires county election officials to cooperate with SOS to ensure that military and overseas voters timely receive accurate balloting materials that a voter is able to cast in time for the election and to otherwise comply with the federal MOVE Act.

Requires SOS, in coordination with local election officials, to implement an electronic free-access system by which a person eligible for early voting by mail may determine by telephone, by e-mail, or over the Internet whether the person's FPCA or other registration or ballot application has been received and accepted and the person's ballot has been received and the current status of the ballot.

Requires that an application for a ballot be submitted on an official FPCA form and include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is required.

Requires that a person, for purposes of registering to vote, provide the address of the last place of residence of the person in this state or the last place of residence in this state of the person's parent or legal guardian.

Requires the registrar to register the person at the address provided unless that address no longer is recognized as a residential address, in which event the registrar shall assign the person to an address under procedures prescribed by SOS.

Requires that the officially prescribed carrier envelope for voting be prepared so that it can be mailed free of U.S. postage, as provided by the federal UOCAV Act.

Authorizes a person eligible to vote under the MOVE Act to request from the appropriate early voting clerk e-mail transmission of balloting materials.

Requires the early voting clerk to grant a request for the e-mail transmission of balloting materials if the requestor has submitted a valid FPCA and a current mailing address that is located outside the U.S.

Requires the early voting clerk to grant a request for the e-mail transmission of balloting materials if the requestor is a member of the U.S. armed forces or merchant marines or the spouse or a dependent of a member and has provided

a current mailing address that is located outside the requestor's county of residence; the requestor provides an e-mail address that corresponds to the address on file with the requestor's FPCA or stated on a newly submitted FPCA; the request is submitted on or before the seventh day before the date of the election; and a marked ballot for the election from the requestor has not been received by the early voting clerk.

Provides that an e-mail address used to request balloting materials is confidential and does not constitute public information and requires the early voting clerk to ensure that a voter's e-mail address is excluded from public disclosure.

Limits the e-mail transmission of balloting materials to an election in which an office of the federal government appears on the ballot, including a primary election; an election to fill a vacancy in the legislature unless the election is ordered as an emergency election or the election is held as an expedited election; or an election held jointly with another election.

Provides that balloting materials to be sent by e-mail include the appropriate ballot; ballot instructions; instructions prescribed by SOS on how to print a return envelope from the federal Voting Assistance Program website and how to create a carrier envelope or signature sheet for the ballot; and a list of certified write-in candidates, if applicable.

Authorizes that the balloting materials be provided by e-mail to the voter in PDF format, through a scanned format, or by any other method of electronic transmission authorized by SOS in writing.

Requires SOS to prescribe procedures for the retransmission of balloting materials following an unsuccessful transmission of the materials to a voter.

Requires a voter who is a member of the U.S. armed forces or merchant marines or the spouse or a dependent of a member to be voting from outside the voter's county of residence.

Requires a voter domiciled in this state but temporarily living outside the territorial limits of the U.S. and the District of Columbia to be voting from outside the U.S.

Requires a voter who receives a ballot by e-mail to return the ballot by mail, common or contract carrier, or courier, but not by electronic transmission.

Provides that a ballot that is not returned as required is considered a ballot not timely returned and is not sent to the early voting ballot board (board) for processing.

Provides that the deadline for the return of a ballot is the same deadline for other methods of voting, which is before the time the polls are required to close on election day.

Requires SOS to create by rule a tracking system under which an FPCA registrant may determine whether a voted ballot has been received by the early voting clerk and requires each county that sends ballots to FPCA registrants to provide information required by SOS.

Authorizes SOS to provide for an alternative secure method of electronic ballot transmission instead of transmission by e-mail.

Requires that a runoff election for a special election to fill a vacancy in Congress or a special election to fill a vacancy in the legislature be held not earlier than the 70th day or later than the 77th day after the date the final canvass of the main election is completed.

Requires that an election, for the election to be held on the date of the general election for state and county officers, be ordered not later than the 78th day before the election day, and for a uniform election date other than the date of the general election for state and county officers, to be ordered not later than the 71st day before election day.

Requires that each general or special election in this state be held on the second Saturday in May in an odd-numbered year; the second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county; or the first Tuesday after the first Monday in November.

Provides that a county elections administrator is not required to enter into a contract to furnish election services for an election held on the second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county.

Provides that the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election day may, not later than December 31, 2012, rather than 2010, change the date on which it holds its general election for officers to the November uniform election date.

Authorizes a home-rule city to change the date on which it holds its general election or provide for the election of all members of the governing body at the same election through the adoption of a resolution.

Requires the clerk, if the return is timely, to enclose the carrier envelope and the voter's early voting ballot application in a jacket envelope with a copy of the voter's FPCA or the signature cover sheet.

Prohibits the early voting clerk, if the clerk has provided a voter a ballot to be voted by mail by both regular and e-mail, from delivering a jacket envelope containing the early voting ballot voted by mail to the board until both ballots are returned or the deadline for returning marked ballots has passed.

Requires the early voting clerk, if both the ballot provided by regular mail and the ballot provided by e-mail are returned before the deadline, to deliver only the jacket envelope containing the ballot provided by e-mail to the board and provides that the ballot provided by regular mail is considered to be a ballot not timely returned.

Requires that in making a determination for a ballot cast under the provisions of the MOVE Act, the board compare the signature on the carrier envelope or signature cover sheet with the signature of the voter on the FPCA.

Requires the board to keep a record of the number of rejected ballots in each envelope.

Requires that a notation be made on the carrier envelope of any ballot that was rejected after the carrier envelope was opened and include the reason the envelope was opened and the ballot was rejected.

Provides that, if a ballot was transmitted to the voter by e-mail, the presiding judge must also provide the notice to the e-mail address to which the ballot was sent.

Requires that for a ballot voted under the provisions of the MOVE Act, the board also place the copy of the voter's FPCA or signature cover sheet in the same location as the carrier envelope.

Requires SOS to prescribe procedures to allow a voter who qualifies to vote by a federal write-in absentee ballot to vote through use of a federal write-in absentee ballot in an election for any office for which balloting materials may be sent under the FPCA provisions.

Establishes deadlines for filing for general elections for state and county officers and for uniform election dates other than the date of the general election for state and county officers; for delivery of certification for withdrawal as a candidate and for a replacement nominee; for omitting or including a withdrawn candidate's name from the ballot; for

declaration of a write-in candidate; and for filing for a place on the general primary election ballot and for special elections.

Provides that an election to permit or prohibit the legal sale of alcoholic beverages of one or more various types and alcoholic contents in a municipality must be conducted by the municipality instead of a county.

Provides filing deadlines for school board elections and provides that the board of trustees may, not later than December 31, 2011, rather than 2007, adopt a resolution changing the length of the staggered terms of its trustees.

Provides that certain general-law municipalities may adopt a resolution changing the length of the terms of its members to two years or providing for the election of all members of the governing body at the same election, specifying the manner in which the transition in the length of terms is made.

Boards of Directors for Water Supply or Sewer Service Corporations—S.B. 333

by Senator Fraser—House Sponsor: Representative Tracy O. King

Currently, Chapter 67 (Nonprofit Water Supply or Sewer Service Corporations), Water Code, requires entities to establish written procedures for holding elections. Chapter 67 does not specify many parameters for holding elections. Some systems have adopted procedures that result in a "closed" process whereby current directors hand-pick who they would like to serve on the board and then control the election by obtaining proxies. Some systems have relied on proxy voting because they are otherwise unable to obtain a quorum due to voter apathy. Without a quorum, a corporation is unable to hold a valid election and therefore has to repeat the election process, sometimes without success a second time. This bill:

Requires that a person, to be qualified for election or appointment as a director, defined as a member of the board of directors of a water supply or sewer service corporation (board; corporation), be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, and a member or shareholder of the corporation.

Provides that a person is not qualified to serve as a director, in addition to other qualifications outlined in this bill, if the person has been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote or has been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.

Requires the board, if the board determines that a person serving as a director does not have the necessary qualifications, to, not later than the 60th day after the date the board makes that determination, remove the director and fill the vacancy by appointing a person who has the qualifications prescribed in the bill.

Sets forth the information a person is required to file on an application with the corporation to be listed on the ballot as a candidate for a director's position.

Requires the application to be filed with the corporation not later than the 45th day before the date of the annual meeting.

Requires the corporation to make available director and candidate application forms at the corporation's main office and to provide application forms by mail or electronically on request.

Requires the corporation, not later than the 30th day before the date of an annual meeting, to mail to each member or shareholder of record, written notice of the meeting, the election ballot, and a statement of each candidate's qualifications, including biographical information as provided in each candidate's application.

Sets forth the requirements of the ballot.

Sets forth election procedures.

Provides that a quorum for the transaction of business at a meeting of the members or shareholders is a majority of the members and shareholders present.

Requires the board to select an independent election auditor who meets certain requirements not later than the 30th day before the scheduled date of the annual meeting.

Joint Elections for Independent School Districts—S.B. 729

by Senator Seliger—House Sponsor: Representative Price

School districts are required to hold their elections in conjunction with a municipality, county, or the state. Some exceptions are made for small districts that hold elections in conjunction with a hospital district. This bill:

Requires that an election for trustees of an independent school district be held on 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.

Electronic Notification of Rules and Rulemaking Filings—S.B. 791

by Senator Duncan—House Sponsor: Representative Jim Jackson

The Government Code requires that each state agency provide a paper copy of all notice of proposed rules to the lieutenant governor and the speaker of the house of representatives when the agency files the notice with SOS for publication in the *Texas Register*. This bill:

Requires SOS, on receiving a written request from a member of the legislature, to provide the member with electronic notifications when the Supreme Court of Texas has promulgated rules or amendments to rules.

Requires SOS, on receiving a written request from the lieutenant governor, a member of the legislature, or a legislative agency, to provide the requestor with electronic notification of rulemaking filings by a state agency.

Information Regarding Deceased Registered Voters—S.B. 1046

by Senator Duncan—House Sponsor: Representative Pena

Currently, SOS updates the statewide voter registration list upon receipt of death notices from local officials as well as the State Bureau of Vital Statistics. This bill:

Requires SOS to quarterly obtain from the United States Social Security Administration available information specified by SOS relating to deceased residents of the state and compare the information received to the statewide computerized voter registration list.

Requires SOS, if SOS determines that a voter on the registration list is deceased, to send notice of the determination to the voter registrar of the counties considered appropriate by SOS.

Requires the registrar to cancel a voter's registration immediately if the registrar receives notice from SOS that the voter is deceased.

Junior College District Annexation Elections—S.B. 1226

by Senator Hegar—House Sponsors: Representatives Callegari and Bohac

The Education Code provides a method by which junior college districts may annex territory into their service area and taxing jurisdiction through an election held within the territory proposed for annexation. If the voters within the area proposed for annexation vote in favor of the proposition to be annexed within the junior college district, then property taxpayers within the district will pay an in-district property tax.

The prescribed ballot language for a junior college district annexation election does not include the applicable tax rate or identify the junior college district seeking to annex territory. This bill:

Requires that the ballot be printed to provide for voting for or against the proposition with the name of the junior college district and authorizing the imposition of an ad valorem tax for junior college purposes, which is currently set at a certain rate per \$100 valuation of taxable property to be included on the ballot.

Automatic Resignation of Officeholder Who Becomes Candidate for Another Office—S.J.R. 37

by Senator Van de Putte—House Sponsor: Representative Van Taylor

Under the Texas Constitution, if a person holding certain elected county or district offices with more than one year left in the officeholder's term announces a candidacy for any public office other than the office currently held, or becomes a candidate for another office, such announcement or candidacy constitutes an automatic resignation from the office then held. This resolution:

Requires a proposed constitutional amendment to be submitted to the voters to:

Change the length of the unexpired term that causes the automatic resignation of certain elected county or district officeholders if they become candidates for another office by providing that if any officeholders announce their candidacy or become a candidate in any general, special, or primary election, for any office of profit or trust under the laws of this state or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one year and 30 days, such announcement or candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Reporting of Alcoholic Beverage Sales—H.B. 11

by Representative Cook et al.—Senate Sponsor: Senator Eltife

Alcohol sales in Texas work under a three-tiered system. Manufacturers of liquor must sell their product to distributors, who then sell the product to retail package stores. Package stores sell the product directly to consumers or to bars, restaurants, and clubs. The system of taxing alcohol is layered on top of this three-tiered system.

The sale of alcohol is tracked and reported at the wholesale level and beyond that to the liquor stores. Liquor stores are not required to report the final destination of the product—whether it is sold to the consumer or to restaurants, bars, and clubs. This bill:

Requires the comptroller to disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report if the person requesting the information holds a permit or license under the Alcoholic Beverage Code and the request relates only to information regarding the sale of a product distributed by the person making the request.

Defines "brewer," "distributor," "manufacturer," "package store local distributor," "retailer," and "wholesaler."

Requires the comptroller to require each brewer, manufacturer, wholesaler, distributor, or package store local distributor to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state.

Requires each brewer, manufacturer, wholesaler, distributor, or package store local distributor to file a separate report for each permit or license held on or before the 25th day of each month.

Requires that the report contain the brewer's, manufacturer's, wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission (TABC); the retailer's name and address, taxpayer number, and alphanumeric permit for each separate retail location or outlet to which the brewer, manufacturer, wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report; and the monthly net sales made by the brewer, manufacturer, wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by TABC, including specifics about the products sold.

Requires the brewer, manufacturer, wholesaler, distributor, or package store local distributor to file the report with the comptroller electronically, but authorizes the comptroller to establish procedures to temporarily postpone the electronic reporting requirement for a brewer, manufacturer, wholesaler, distributor, or package store local distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the report electronically.

Authorizes the comptroller to adopt rules to implement these provisions.

Establishes that these provisions apply only to a brewer whose annual production of malt liquor in this state, 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 and only to a manufacturer whose annual production of beer in this state does not exceed 75,000 barrels.

Provides that if a person fails to file a report or fails to file a complete report, the comptroller may impose a civil or criminal penalty, or both.

Provides that in addition to the penalties, a brewer, manufacturer, wholesaler, distributor, or package store local distributor shall 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 provisions or violates a rule adopted to administer or enforce these provisions.

Authorizes the comptroller to audit, inspect, or otherwise verify a brewer's, manufacturer's, wholesaler's, distributor's, or package store local distributor's compliance.

Authorizes the comptroller to bring an action to enforce these provisions and obtain any authorized civil remedy for a violation and requires the attorney general to prosecute the action on the comptroller's behalf.

Confers venue for and jurisdiction of an action under these provisions exclusively on the district courts of Travis County.

Entitles the comptroller and attorney general to recover court costs and reasonable attorney's fees incurred in bringing the action if the comptroller prevails.

Designating April as Minority Cancer Awareness Month—H.B. 114

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

According to the American Cancer Society, minority populations endure the highest cancer death rate and shortest survival time throughout the country. The causes of these elevated statistics among minorities are complex and tend to be closely linked with social and economic disparities. This bill:

Establishes 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.

Provides that Minority Cancer Awareness Month shall be regularly observed by appropriate activities in public locations to increase cancer awareness, including specific effects, incidents, and impact of cancer on minority populations, and encourage support for minority cancer education, diagnosis, treatment, and prevention.

Establishment of the Texas Derbies—H.B. 254

by Representative Hilderbran et al.—Senate Sponsor: Senator Wentworth

The Texas Racing Act provides for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing in Texas. TRC regulates and supervises every race meeting in this state involving wagering on the result of greyhound or horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision by TRC. This bill:

Requires TRC to establish the Texas Derbies as annual stakes races with one race open to three-year-old Thoroughbreds, one open only to three-year-old Texas-bred Thoroughbreds, one open only to three-year-old quarter horses, and one open only to three-year-old Texas-bred quarter horses.

Requires the respective official state breed registries and the official horsemen's organization to develop the race conditions, entrance qualifications, and the preference system used to determine the race finalists for a Texas Derby open only to Texas-bred horses.

Requires each class 1 racetrack that is awarded a Texas Derby that is not limited to Texas-bred horses to develop the race conditions, entrance qualifications, and the preference system used to determine the race finalists.

Provides that all race conditions, qualifications, and preference systems developed for the Texas Derbies are subject to review and approval by the executive secretary of TRC.

Requires TRC to set the date and location for each Texas Derby that must be held annually at the class 1 racetrack determined by TRC in consultation with each class 1 racetrack, the official state breed registries, and the official horsemen's organization.

Authorizes TRC to sell the right to name a Texas Derby and requires TRC to deposit the proceeds into the Texas Derby escrow purse fund.

Provides that the date of the initial Texas Derby may not be earlier than January 1, 2015.

Requires TRC, for each derby, to appoint a state veterinarian to conduct a prerace examination of each horse entered in the race to determine whether the horse is healthy and meets standards set by TRC rule for racing.

Requires TRC to establish a Texas Derby escrow purse fund.

Requires TRC to establish a schedule of entrance fees for participants in each Texas Derby, with a portion of each fee to be deposited in the Texas Derby escrow purse fund.

Requires TRC to determine a portion of the fees, charges, and other revenue to be deposited to the credit of the Texas Derby escrow purse fund as reasonably necessary to maintain competitive purses for each Texas Derby.

Requires TRC to assess additional charges and fees, including gate fees, to supplement the funds otherwise deposited in the Texas Derby escrow purse fund.

Provides that TRC may not use funds from the accredited Texas-bred program or the escrowed purse account to fund the Texas Derby escrow purse fund or order a breed registry to fund a purse for a Texas Derby, make contributions to the Texas Derby escrow purse fund, or pay the expenses of a Texas Derby race.

Provides that no other state revenue may be deposited to the credit of the Texas Derby escrow purse fund.

Address Matching Software—H.B. 266

by Representative Hilderbran—Senate Sponsor: Senator Duncan

State agencies spend significant sums on various types of mailings. Any savings in mailing costs reduces the cost of state operations to the taxpayer. Incorrect or incomplete addresses in state agency databases can result in undelivered mail, extended delivery times, and lost revenue. The United States Postal Service (USPS) has adopted standards for address correction software to increase the accuracy of addressing. Mail that is prepared in compliance with these standards typically qualifies for discounted postal rates from the postal service. While appraisal districts may use driver's license record information in granting homestead exemptions, the results of a recent test revealed that the driver's license address information could often not be matched to the correct postal service address. This bill:

Authorizes state agencies to take advantage of USPS discounts that may be available and increase the accuracy of mailing addresses in state agency databases by requiring a state agency, if practicable, to use address-matching software that meets certification standards under the Coding Accuracy Support System adopted by USPS or that meets any subsequent standard adopted by USPS to replace Coding Accuracy Support System standards for preparation of bulk mailings.

Requires the Texas Department of Transportation (TxDOT), by rule, to establish a system to ensure that addresses of driver's license holders are verified and matched to USPS delivery addresses by use of address-matching software.

Requires the software to meet certification standards under the Coding Accuracy Support System adopted by USPS or a subsequent standard adopted by USPS to replace Coding Accuracy Support System standards for preparation of bulk mailings.

Reforms Regarding Civil Actions and Family Law Matters—H.B. 274

by Representative Creighton et al.—Senate Sponsor: Senator Huffman

The Government Code and the Civil Practices and Remedies Code were enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change. The purpose of these codes is to make the law encompassed by the codes more accessible and understandable by rearranging the statutes into a more logical order; employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law; eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and restating the law in modern American English to the greatest extent possible. This bill:

Requires the Supreme Court of Texas to adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence, requires the motion to dismiss to be granted with 45 days, and provides that the rules do not apply to actions under the Family Code.

Requires the court, in a civil proceeding, on a trial court's granting or denial of a motion to dismiss, to award costs and reasonable and necessary attorney's fees to the prevailing party, but exempts actions by or against the state, or governmental entities, or public officials acting in their official capacity or under color of law.

Requires the supreme court to adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions that apply to 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 address the need for lowering discovery costs for ensuring that these actions will be expedited in the civil justice system.

Provides that on a party's motion or on its own initiative, a trial court in a civil action may, by written order, permit an appeal from an order that is not otherwise appealable if the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and an immediate appeal from the order may materially advance the ultimate termination of the litigation.

Authorizes an appellate court to accept an appeal if the appealing party, not later than the 15th day after the date the trial court signs the order to be appealed, files in the court of appeals having appellate jurisdiction over the action an application for interlocutory appeal explaining why an appeal is warranted.

Provides that if the court of appeals accepts the appeal, the appeal is governed by the procedures in the Texas Rules of Appellate Procedure for pursuing an accelerated appeal.

Defines "litigation costs" as money actually spent and obligations actually incurred that are directly related to the action in which a settlement offer is made and includes reasonable deposition costs.

Provides that the settlement provisions of the Civil Practice and Remedies Code do not apply to an action filed in a justice of a peace court or a small claims court.

Establishes that parties are not required to file a settlement offer with the court.

Provides that litigation costs that may be awarded according to the settlement provisions of the Civil Practice and Remedies Code to any party may not be greater than the total amount that the claimant recovers or would recover before adding an award or litigation costs in favor of the claimant or subtracting as an offset an award of litigation costs in favor of the defendant.

Provides that a defendant may not designate 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 its obligations to timely disclose that the person may be designated as a responsible third party.

Texas Portal Website Change—H.B. 328

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Current law requires the comptroller to include a statement and a website link on each application for a state tax permit or license issued by the comptroller. Since passage of the law enacting this requirement, DIR has determined that the website links ending in ".gov" elicit better consumer feedback than do those ending in ".com." In light of this determination, the comptroller is now including a web address ending in ".gov," rather than ".com," with each permit or license or application it issues. This bill:

Changes the website address referenced in a statement the comptroller of public accounts is required to include on each application for a state tax permit or license issued by the comptroller from <http://www.TexasOnline.com/portal/tol/en/9/1> to <http://www.Texas.gov>.

Reporting by Members of School District Boards of Trustees—H.B. 336

by Representative Marquez—Senate Sponsor: Senator Rodriguez

Campaign finance reports for school board elections are available through an open records request. In larger cities, some school board elections have become progressively more complex and expensive. This bill:

Applies to school districts located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000.

Requires that a report filed by a member of the board of trustees of a school district or a candidate for membership on the board of trustees of a school district or a specific purpose committee for supporting, opposing, or assisting a candidate or member of a board of trustees be posted on the Internet website of the school district.

Requires the report to be available to the public on the Internet website not later than the fifth business day after the date the report is filed with the school district.

Provides that access allowed to reports is in addition to the public's access to the information through other electronic or print distribution of the information.

Allows the school district, before making a report available on the Internet, to remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report, but provides that the information must remain available on the report maintained in the school district's office.

Governmental Contracts and Professional Services to Public Works—H.B. 628

by Representative Callegari—Senate Sponsor: Senator Jackson

Traditionally, procurement of construction projects in Texas has been guided by two sets of statutes. According to Chapter 2155 (Purchasing: General Rules and Procedures), Government Code, purchases over a certain threshold amount, including construction, generally must be procured through competitive bidding. Chapter 2254 (Professional and Consulting Services), Government Code, provides a specific exception from this requirement for professional services and provides that a governmental entity may not select a professional services provider on the basis of competitive bid but must make the selection based on the basis of demonstrated competence and qualifications to provide the services and at a fair and reasonable price. This bill:

Provides that a reverse auction may not be used to obtain services related to a public work contract for which a bond is required.

Provides that the board of trustees of a school district (district) is not prohibited from entering into an agreement for the design, construction, or renovation or improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district.

Requires that all contracts for the purchase of goods and services, except for the purchase of produce and vehicle fuel valued at \$50,000 or more, be made by competitive bidding for services other than construction services; competitive sealed proposals for services other than construction services; a request for proposals for services other than construction services; a method provided by Chapter 2267 (Contracting and Delivery Procedures for Construction Projects), Government Code, created by this bill; or a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor of the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state, that provides the best value for the district.

Excludes contracts for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent.

Authorizes a district to use competitive bidding to select a vendor but establishes that only the provisions regarding opening bids, award of contracts, and safety and bidder considerations of the Local Government Code apply to their competitive bidding process.

Requires a district to award a competitively bid contract at the bid amount to the bidder offering the best value for the district, not restricted to price alone.

Requires a district to prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request and to state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

Requires a district to receive, publicly open, and read aloud the names of the offerors and all prices stated in each proposal and evaluate and rank each proposal not later than the 45th day after the date on which the proposals are opened.

Requires the district to select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation and first attempt to negotiate a contract with the selected offeror.

Allows the district to discuss with the selected offeror options for a scope or time modification and any price change associated with the modification and requires the district, if the district is unable to negotiate a satisfactory contract

with the selected offeror, to formally and in writing, end negotiations with that offeror and proceed to the next offeror in order of selection ranking until a contract is reached or all proposals are rejected.

Provides that the district, in determining the best value for the district, is not restricted to considering price alone but may consider other factors stated in the selection criteria.

Provides that a district may approve change orders making the changes if a change in plans or specifications is necessary or if it is necessary to decrease or increase the quantity of work to be performed or materials, equipment, or supplies to be furnished.

Prohibits the total contract price from being increased because of changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

Authorizes a district to grant general authority to an administrative official to approve the change orders.

Prohibits a contract with an original contract price of \$1 million or more from being increased by more than 25 percent.

Defines "net proceeds" and "state's share."

Requires a 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 (commissioner) with written notice of the action.

Authorizes the commissioner of education to join in the action for recovery of damages on behalf of the state to protect the state's share in the action.

Requires a district to use the net proceeds from an action brought by the district for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance to repair or replace the facility.

Provides that the state's share is state property and requires the district to send to the comptroller of public accounts (comptroller) any portion of the state's share not used by the school district to repair or replace the facility.

Provides that the method of contracting is any method provided by Chapter 2267, Government Code, created by this bill.

Creates Chapter 2267 (Contracting and Delivery Procedures for Construction Projects) in the Government Code.

Defines "architect," "engineer," "facility," "general conditions," "general contractor," and "public work contract."

Establishes that Chapter 2267 applies to a public work contract made by a governmental entity authorized by state law to make a public work contract, including a state agency; a local government; any other special district or authority; and any other political subdivision.

Provides that Chapter 2267 prevails over any other law relating to a public work contract.

Provides that Chapter 2267 does not prevail over a conflicting provision in a law relating to contracting with a historically underutilized business (HUB) or conflicting provisions in the Local Government Code, the Water Code, or the Texas Constitution.

Excludes a contract entered into by the Texas Department of Transportation or a project that receives money from a state federal highway fund.

Establishes that Chapter 2267 applies to a public junior college but not to any other institution of higher education or university system.

Excludes regional tollway authorities; certain local government corporation improvement projects; regional mobility authorities; county toll authorities, unless the county adopts an order electing to be governed by Chapter 2267 for a project to be developed by the county; and coordinated county transportation authorities.

Authorizes a governmental entity to adopt rules as necessary to implement Chapter 2267.

Requires governmental entities, including municipalities, river authorities, conservation and reclamations districts, defense base development authorities, and counties to advertise or publish notice of requests for bids, proposals, or qualifications; publish notice of the time and place the bid or proposal or request for qualification will be received and opened.

Authorizes the governing body of a governmental entity to delegate its authority to a designated representative, committee, or other person and provide notice of the delegation.

Provides that a governmental entity, when engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for public work or public improvement, may not consider whether a person is a member of or has another relationship with any organization and must ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status.

Authorizes the governmental entity, in determining the award of a contract, to consider the price; the offeror's experience and reputation; the quality of the offeror's goods or services; the impact on the ability of the governmental entity to comply with rules relating to HUBs; the offeror's safety record; the offeror's proposed personnel; whether the offeror's financial capability is appropriate to the size and scope of the project; and any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Requires the governmental entity, in determining the award of a contract, to consider and apply any existing laws, including any criteria, related to HUBs, and any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Requires a governmental entity using a method other than competitive bidding to determine which method provides the best value for the governmental entity, base its selection on applicable criteria, and publish the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion.

Requires the governmental entity to document the basis of its selection and make the evaluations public not later than the seventh day after the date the contract is awarded.

Provides that an architect or engineer required to be selected has full responsibility for complying with the provisions under the Texas Board of Architectural Examiners and Engineers in the Occupations Code.

Requires a governmental entity to provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity.

Requires a person who submits a bid, proposal, or qualification to a governmental entity to seal the bid before delivery.

Defines "competitive bidding" and provides that a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract, receives competitive bids, and awards the contract to the lowest responsible bidder.

Requires the governmental entity to select or designate an architect or engineer to prepare the construction documents required for a project to be awarded by competitive bidding.

Requires the governmental entity to prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid.

Requires the governmental entity to receive, publicly open, and read aloud the names of the offerors and their bids and to document, not later than the seventh day after the contract is awarded, the basis of its selection and make the evaluation public.

Defines "competitive sealed proposals" and requires the governmental entity to prepare a request for competitive sealed proposals that includes construction documents, selection criteria and weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request.

Requires the governmental entity to receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors and evaluate and rank each proposal no later than the 45th day after the date on which the proposals are opened.

Requires the governmental entity to select the offeror that submits the proposal that offers the best value for the governmental entity based on the selection criteria and its ranking evaluation and first attempt to negotiate a contract with the selected offeror.

Allows the governmental entity and its architect or engineer to discuss with the selected offeror options for a scope or time modification and any price change associated with the modification and requires the governmental entity, if the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, to formally and in writing, end negotiations with that offeror and proceed to the next offeror in order of selection ranking until a contract is reached or all proposals are rejected.

Defines "construction manager-agent method" and establishes that a construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the governmental entity by providing construction administration and management services for the construction, rehabilitation, alteration, or repair of a facility.

Provides that that contract between the governmental entity and the construction manager-agent may require the construction manager-agent to provide administrative personnel, equipment, on-site management, and other services specified in the contract.

Prohibits a construction manager-agent from self-performing any aspect of the construction, rehabilitation, alteration, or repair of the facility; being a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility; or providing or being required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Establishes that the construction manager-agent represents the governmental entity in a fiduciary capacity.

Requires the governmental entity to select or designate an architect or engineer, on or before the selection of a construction manager-agent, to prepare the construction documents for the project.

Provides that the architect or engineer may not serve as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process.

Requires a governmental entity using the construction manager-agent method to procure a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the governmental entity.

Requires a governmental entity to select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected.

Requires a construction manager-agent to maintain professional liability or errors and omissions insurance in the amount of at least \$1 million for each occurrence.

Defines the "construction manager-at-risk method" as a delivery method by which a governmental entity contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

Establishes that a construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility and that the contracted price may be a guaranteed maximum price.

Allows the governmental entity to use the construction manager-at-risk method in selecting a general contractor.

Requires the governmental entity, on or before the selection of a construction manager-at-risk, to select or designate an architect or engineer to prepare the construction documents for the project.

Prohibits the governmental entity's architect or engineer for a project from serving as the construction manager-at-risk unless the architect or engineer is hired to serve as the construction manager-at-risk under a separate or concurrent selection process.

Requires the governmental entity to select the construction manager-at-risk in a one-step or two-step process and to prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process.

Requires the governmental entity to state the selection criteria in the request for proposals or qualifications.

Establishes what may and may not be included in a one-step or two-step process and requires that governmental entity, at each step, to receive, publicly open, and read aloud the names of the offerors and, at the appropriate step, the fees and prices stated in each proposal, if any.

Requires the governmental entity to receive, publicly open, and read aloud the names of the offerors and, at the appropriate step, fees and prices stated in each proposal, if any.

Requires the governmental entity to evaluate and rank each proposal not later than the 45th day after the date on which the proposals are opened and to select the offeror that offers the best value for the governmental entity and first attempt to negotiate a contract with the selected offeror.

Requires the governmental entity, if unable to negotiate a satisfactory contract with the selected offeror, to formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

Requires the governmental entity to make the rankings public not later than the seventh day after the date the contract is awarded.

Requires a construction manager-at-risk to publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions.

Allows a construction manager-at-risk to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal as all other trade contractors or subcontractors and the governmental entity determines that the construction manager-at-risk's bid or proposal provides the best value for the governmental entity.

Requires the construction manager-at-risk to review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or governmental entity and provides that all bids or proposals be made available on request to the public after the award of the contract or after the date of final selection of bids and proposals.

Requires the governmental entity, if the construction manager-at-risk recommends a bid or proposal but the governmental entity requires another bid or proposal, to compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk incurred as a result of the governmental entity's requirement that another bid be accepted.

Authorizes the construction manager-at-risk, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, to itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

Requires that penal sums of the performance and payment bonds delivered to the governmental entity each be in an amount equal to the construction budget, as specified in the request for proposals or qualifications, if a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded.

Requires the construction manager-at-risk to deliver the bonds not later than the 10th day after the date the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Defines "design build" as a project delivery method by which a governmental entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Excludes a highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, related type of project associated with civil engineering construction, or a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Authorizes a governmental entity to use the design-build method for the construction, rehabilitation, alteration, or repair of a building or associated structure.

Requires a design-build firm to be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor.

Requires the governmental entity to select or designate an architect or engineer independent of the design-build firm to act as the governmental entity's representative for the duration of the project.

Requires the governmental entity to prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms.

Requires the governmental entity to prepare a design criteria package requiring architectural and engineering practices in accordance with provisions in the Occupations Code and including a set of documents with sufficient information and necessary criteria to permit a design-build firm to prepare an appropriate and thorough response.

Prohibits the governmental entity from requiring offerors to submit architectural or engineering designs as part of a proposal or response to a request for qualifications.

Requires the governmental entity to evaluate each firm's experience, technical competence, and capability to perform, the past performance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request, except cost-related or price-related evaluation factors.

Requires each design firm to certify that each architect or engineer who is a member of the firm was selected based on demonstrated competence and qualifications.

Requires the governmental entity to qualify a maximum of five responders to submit proposals that contain additional information and, if the governmental entity chooses, to interview for final selection.

Authorizes the governmental entity to request additional information that may include "costing methodology."

Requires the governmental entity to rank each proposal on the basis of the criteria set forth in the request for qualifications and to select the design-build firm that submits the proposal offering the best value for the governmental entity.

Requires the governmental entity to first attempt to negotiate a contract with the selected firm and, if the governmental entity is unable to negotiate a satisfactory contract with the selected firm, to formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Requires the governmental entity to make the rankings public not later than the seventh day after the date the contract is awarded.

Requires the firm's architects or engineers to submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.

Requires the design-build firm to supply a set of construction documents, noting any changes made during construction, for the completed project to the governmental entity at the conclusion of construction.

Provides that a payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm.

Requires that penal sums of the performance and payment bonds delivered to the governmental entity each be in an amount equal to the construction budget, as specified in the design criteria package, if a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded.

Requires the design-build firm to deliver the bonds not later than the 10th day after the day the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before construction begins.

Defines "civil works project" as roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects, or transit projects; types of projects or facilities related to these projects and buildings or structures that are incidental to these projects or facilities that are primarily civil engineering construction projects.

Defines a "design-build firm" as a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.

Defines "design criteria package" as a set of documents that provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project and permits a design-build firm to assess the scope of work and the risk involved and submit a proposal on the project.

Establishes that Section 352, Chapter 2267, Government Code, applies to a governmental entity that has a population of more than 100,000 within the entity's geographic boundary or service area or is a board of trustees governed by the Transportation Code.

Authorizes a governmental entity to use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project.

Provides that a contract may cover only a single integrated project and that a governmental entity may not enter into a contract for aggregated projects at multiple locations.

Requires a governmental entity to use certain criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project.

Requires the governmental entity to make a formal finding on the criteria before preparing a request for qualifications.

Provides that before September 1, 2013, a governmental entity with a population 500,000 or more may enter into contracts for not more than three projects in any fiscal year and not more than six projects in any fiscal year after September 1, 2013.

Provides that before September 1, 2015, a governmental entity with a population of 100,000 or ore but less than 500,000 or a board of trustees governed by the Transportation Code may enter into contracts for not more than two projects in any fiscal year and not more than four in any fiscal year after September 1, 2015.

Provides that for purposes of determining the number of eligible projects, a municipally owned water utility with a separate governing board appointed by the governing board of the municipality is considered part of the municipality.

Requires the governmental entity to select an engineer based on demonstrated competence and qualifications who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works projects.

Requires the governmental entity to provide or contract for, independently of the design-build firm, certain services necessary for the acceptance of the civil works project by the entity.

Requires the governmental entity to prepare a request for qualifications that includes information on the civil works project site; the project scope, budget, and schedule; criteria for selection and the weighting of the criteria; and other information that may assist potential design-build firms in submitting proposals for the project.

Requires the governmental entity to prepare a design criteria package and specifies components that may be included, as appropriate.

Requires the governmental entity to receive proposals and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors, except cost-related or price-related factors.

Requires each offeror to select each engineer that is a member of its team based on demonstrated competence and qualifications and to certify that each selection was based on demonstrated competence and qualifications.

Requires the governmental entity to select a design-build firm using a combination of technical and cost proposals.

Requires the governmental entity to request proposals from design-build firms and requires firms to first submit a proposal with certain criteria not later than the 180th day after the date the government entity makes a public request for the proposals from the selected firms.

Requires the governmental entity to first open, evaluate, and score each responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals.

Authorizes the governmental entity to reject as nonresponsive any firm that makes a significant change to the composition of its firm as initially submitted.

Requires the governmental entity to first open, evaluate, and score the cost proposals and assign points on the basis of the weighting specified in the request for proposals.

Requires the governmental entity to select the design-build firm in accordance with the formula provided in the request for proposals.

Requires the governmental entity, after selecting the highest ranked design-build firm, to first attempt to negotiate a contract with the selected firm and if unable to negotiate a satisfactory contract, to formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Requires the governmental entity to assume all risks and costs associated with scope changes and modifications; unknown or differing site conditions; regulatory permitting; natural disasters and other force majeure events; and all costs associated with property acquisition.

Provides that unless a stipend is paid, the design-build firm retains all rights to the work product submitted in a proposal and prohibits the governmental entity from releasing or disclosing the work product contained in an unsuccessful proposal.

Requires the governmental entity to return all copies of the proposal and other information submitted to an unsuccessful offeror.

Holds the governmental entity liable to any unsuccessful offeror for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror.

Allows the governmental entity to offer an unsuccessful design-build firm that submits a response to the entity's request for additional information a stipend for preliminary engineering costs associated with the development of the proposal.

Provides that the work product contained in an unsuccessful proposal submitted and rejected is confidential and may not be released unless a stipend offer has been accepted and paid.

Requires the design-build firm to submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.

Requires an appropriately licensed design professional to sign and seal construction documents before the documents are released for construction.

Requires the design-build firm, at the conclusion of construction, to supply to the governmental entity a record set of construction documents for the project prepared.

Requires, if a fix contract amount has not been determined, that penal sums of the performance and payment bonds delivered to the governmental entity to be in an amount equal to the construction budget, if commercially available and practical, as specified in the design criteria package.

Requires the design-build firm, if the governmental entity awards a design-build contract, to deliver the bonds not later than the 10th day after the date the design-build firm executes the contract.

Defines "job order contracting" as a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite.

Establishes that Section 402, Chapter 2267, Government Code, applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building.

Excludes a highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, a related type of project associated with civil engineering construction, or a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Authorizes a governmental entity to award job order contracts.

Requires the governmental entity to establish the maximum aggregate contract price when it advertises the proposal.

Requires the governing body of the governmental entity to approve each job, task, or purchase order that exceeds \$500,000.

Authorizes the governmental entity to establish contractual unit prices for a job order contract by specifying one or more published construction unit price books and the applicable divisions on the line items or providing a list of work

items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepaid work items as the price proposal.

Authorizes a governmental entity to use the competitive sealed proposal method for job order contracts.

Requires the governmental entity to require offerors to submit information in addition to rates, including experience, past performance, and proposed personnel and methodology.

Authorizes a governmental entity to award job order contracts to one or more job order contractors in connection with each solicitation of proposals.

Provides that a job order contract may be used to accomplish work only for the governmental entity that awards the contract unless the contract specifically provides for use by other persons or the governmental entity enters into an interlocal agreement that provides otherwise.

Requires a governmental entity to, if required under the contract, select an architect or engineer to prepare the construction documents for the project.

Excludes a job order contract or an order issued for industrialized housing, industrialized buildings, or relocatable educational facilities if the contractor employs the services of an architect or engineer who approves the documents for the project.

Provides that the base term for a job order contract may not exceed two years and authorizes the governmental entity to renew the contract annually for not more than three additional years.

Requires that an order for a job or project under a job order contract be signed by the governmental entity's representative and the contractor and allows the order to be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or a unit price order based on the quantities and line items delivered.

Requires the contractor to provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

Provides that a contract entered into in violation of Chapter 2267, Government Code, is voidable as against public policy.

Provides that Chapter 2267, Government Code, may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date on which the contract is awarded and exempts enforcement of a contract entered into by a state agency, including the Texas Facilities Commission.

Authorizes the governing body of the municipality to grant general authority to an administrative official of the municipality if a change order for public works contract in a municipality with a population of 500,000 or more involves a decrease or an increase of \$100,000 or less.

Provides that a contract with an original contract price of \$1 million or more may not be increased by more than 25 percent.

Provides that if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount

of less than \$100,000 or a contract for other purchases in an amount less than \$500,000 with the lowest bidder or the bidder whose principal place of business is in the municipality.

Authorizes TxDOT to contract with an owner of land adjacent to a highway that is part of the state highways system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

Establishes that Chapter 2267, Government Code, does not apply to certain sections of the Education Code, Government Code, Local Government Code, Transportation Code, and Water Code, regarding contracting laws and energy savings.

Provides amendments to conform statutes with the creation of Chapter 2267, Government Code, and to repeal certain sections of the Education Code, Government Code, and Transportation Code.

State Law and International Agreements—H.B. 1129

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

There is an ongoing debate as to whether certain international agreements or rulings by the International Court of Justice have authority to affect state government or change existing state laws. This bill:

Directs OAG to conduct a study to determine whether the law of this state or the legislative authority of the Texas Legislature is or may be restricted, nullified, superseded, preempted, or otherwise directly affected by any existing proposed compact, agreement, or other arrangement between the United States (U.S.), this state, or a political subdivision of this state and a foreign governmental entity; any international organization consisting of public or private entities from the U.S. and any other nation or nations, acting in coordination with a federal, state, or local government, or with a state purpose of influencing governmental action or public policy; or any foreign or international body acting in connection with or under the authority of a compact, agreement, or other arrangement through any means including legislative or administrative action, judicial or quasijudicial decision, order, rule, regulation, or other action.

Requires OAG to investigate and report whether any such entity has attempted, formally or informally, to restrict, nullify, supersede, preempt, or otherwise directly affect the law or policy of this state or the authority of any state or local governmental body in this state.

Requires OAG to include consideration of the North American Free Trade Agreement, the Security and Prosperity Partnership of North America, the World Trade Organization, the World Health Organization, the United Nations, and North America's SuperCorridor Coalition, Inc.

Authorizes OAG to enter into an agreement or other arrangement with a law school at a public institution of higher education in this state under which OAG may make use of the resources and personnel of the law school in conducting the study.

Requires OAG to report the findings of the study and provide a copy of the report to each member of the legislature not later than December 1, 2012.

Surety Bond Requirements for Reserve Deputy Constables—H.B. 1241*by Representative Zedler—Senate Sponsor: Senator Harris*

The Local Government Code requires a reserve deputy constable to take the official oath and to execute a bond in the amount of \$2,000, payable to the constable; requires that the oath and bond be filed with the county clerk of the county in which the appointment is made; and requires that the oath and bond be given before the reserve deputy constable's entry on duty and simultaneously with the officer's appointment. This bill:

Authorizes a constable, if the constable appoints more than one reserve deputy constable, to execute a blanket surety bond to cover the reserve deputy constables.

Authorizes the county, instead of a reserve deputy constable executing an individual bond or the constable executing a blanket surety bond, to self-insure against losses that would have been covered by the bond.

References to Game Warden in the Parks and Wildlife Code—H.B. 1346*by Representative Guillen—Senate Sponsor: Senator Zaffirini*

References to a "game management officer" still exist in the Parks and Wildlife Code even though the position no longer exists. To provide consistent terminology in the Parks and Wildlife Code, the term "game management officer" needs to be replaced with "game warden." This bill:

Changes references in the Parks and Wildlife Code from "game management officer" to "game warden" and makes conforming changes.

Retired County Law Enforcement Officer Purchase of an Issued Firearm—H.B. 1379*by Representative Anchia—Senate Sponsor: Senator West*

Currently, an honorably retired peace officer is not allowed to purchase and keep a firearm that was issued to the officer during the officer's tenure. Since a retired officer may have sentimental value invested in the firearm issued during his or her tenure, several counties have requested the authority to allow such purchases. This bill:

Authorizes an honorably retired peace officer to purchase such a firearm from the county that commissioned and initially issued the firearm to the officer.

Provides that such an officer may purchase only one firearm that was previously issued to the officer by the county.

Requires the county commissioners court to establish the amount for which a firearm may be purchased that does not exceed fair market value.

Information Resources Management Act—H.B. 1495*by Representative Munoz, Jr.—Senate Sponsor: Senator Hinojosa*

Concerns have been raised that provisions of law governing DIR by which public junior college districts are considered local government entities while public junior colleges are considered state agencies, which are required to comply with certain DIR rules, create confusion regarding the applicability of DIR requirements. These parties report that, historically, DIR has considered both public junior colleges and public junior college districts exempt from DIR's requirements and that public junior colleges are specifically excluded from DIR's requirements relating to information security. This bill:

Clarifies that DIR's statutory obligations and rules do not apply to a public junior college and a public junior college district, except as necessary for participation in the electronic government project implemented under Subchapter I (Texas Online Project) and except as to Section 2054.119 (Bids or Proposals for Interagency Contracts), Government Code.

TexasOnline—H.B. 1504

by Representatives Munoz, Jr., and Pena—Senate Sponsor: Senator Hinojosa

Currently, the official website, or Internet portal, for the State of Texas is Texas.gov. Operated by DIR in partnership with a private vendor, Texas.gov replaced TexasOnline.com when that site was updated to reflect new website naming conventions. This bill:

Replaces statutory references to "TexasOnline" with the generic term "state electronic Internet portal" so that those references will not have to be changed if the site is renamed.

Energy Efficiency Planning—H.B. 1728

by Representative Keffer—Senate Sponsor: Senator Harris

Currently statutes relating to energy savings performance contracts do not clearly state that performance contracting can be implemented for new buildings, which can be interpreted as excluding new buildings.

Additionally there is concern that the current statutes relating to energy savings performance contracts do not allow public entities the flexibility to use other available money to pay for a performance contract or additional work as part of a performance contract. This bill:

Authorizes school districts, institutions of higher education, state agencies, and local governments to use any available money, with the exception of money borrowed from the state, to pay for an energy savings performance contract.

Storage of Local Government Records—H.B. 1844

by Representative Guillen—Senate Sponsor: Senator Watson

Under current law, TSLAC is authorized to microfilm state and local government records and is required to operate the state records center for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital state records. TSLAC does not have the authority, however, to store local government records. This bill:

Authorizes the TSLAC director and librarian to allow the state records center to provide for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital local government records.

Membership and Duties of the Human Trafficking Prevention Task Force—H.B. 1930

by Representative Zedler—Senate Sponsor: Senator Van de Putte

The Human Trafficking Prevention Task Force (task force) is not currently required to study issues relating to an association between human trafficking and the operation of certain sexually oriented businesses. This bill:

Requires the task force to examine the extent to which human trafficking is associated with the operation of sexually oriented businesses and certain conditions related to any such association.

Adds DSHS to the list of entities to be represented on the task force.

Sale of Certain State-Owned Land in Brazoria County—H.B. 2004

by Representative Bonnen—Senate Sponsor: Senator Jackson

Petrochemical manufacturing in the Brazosport area of southern Brazoria County creates more than 8,000 direct jobs. Dow Chemical Company is a key industry in the area, providing employment for numerous citizens in the area. Water capture related to the industry is necessary to maximize industry efficiency. A reservoir would optimize water capture at Dow Chemical Company's intake location, which is the last intake point before this fresh water is lost into the Gulf of Mexico, and store it for use when there is no water flowing in this lowest reach of the river. There are no bays or estuaries connected to the Brazos River. The Dow Chemical Company owns the adjacent tract of land to land that is owned by TBCJ and would like to construct a reservoir on that tract of land currently owned by TBCJ to provide water to Dow, other industry customers, and regional municipalities. This bill:

Requires TBCJ to sell at a minimum fair market value established by the commissioner of GLO approximately 2,200 acres of unimproved property located in Brazoria County for the purposes of building a reservoir for the Dow Chemical plant located in that county.

Requires the sale to exclude the mineral interests in and under the property, and requires the deed to contain a provision expressly reserving the state's interest in and right to remove all oil, gas, and other minerals in and under the real property

Requires that GLO negotiate and close the transaction through a sealed bid public auction process provided for in Section 31.158 (Real Estate Transactions Authorized by Legislature), Natural Resources Code.

Requires that the minimum bid for the TBJC land be \$5.5 million

Requires the governor and the commissioner of GLO to approve the transaction.

Expedited Access to the State Capitol—H.B. 2131

by Representatives Geren et al.—Senate Sponsor: Senator Eltife

Texans with concealed handgun licenses (CHL) can bypass certain security devices at the entrances of the Capitol building. An applicant must meet certain requirements to obtain a CHL, including showing proof of identity and residency, paying a license fee, and undergoing a criminal background check. This bill:

Requires DPS to allow a person to enter the Capitol and the Capitol Extension, including any public space in the Capitol or Capitol Extension, in the same manner as DPS allows entry to a person who presents a CHL if the person obtains from DPS a Capitol access pass and presents the pass to the appropriate law enforcement official when entering the building or a space within the building.

Requires a person, to be eligible for a Capitol access pass, to meet the eligibility requirements applicable to a license to carry a concealed handgun, other than requirements regarding evidence of handgun proficiency.

Requires DPS to adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass.

Challenges to the Constitutionality of Texas Statutes—H.B. 2425

by Representative Thompson—Senate Sponsor: Senator Hegar

Because a party challenging the constitutionality of a state statute is not required to notify OAG of the suit, OAG is often unaware of a constitutional challenge to state statute until the litigation has substantially progressed or concluded. This bill:

Requires that the court, in an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, if OAG is not a party to or counsel involved in the litigation, serve notice of the constitutional question and a copy of the petition, motion, or other pleading that raises the challenge on OAG either by certified or registered mail or electronically to an e-mail address designated by OAG for this purpose.

Requires that notice of a constitutional challenge identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge.

Prohibits a court from entering a final judgment holding a statute of this state unconstitutional before the 45th day after the date the required notice is served on OAG.

Provides that a court's failure to file or serve notice does not deprive the court of jurisdiction or forfeit an otherwise timely filed claim or defense based on the challenge to the constitutionality of a statute of this state.

Provides that the state's intervention in litigation in response to notice does not constitute a waiver of sovereign immunity.

Distribution of Universal Service Funds—H.B. 2603

by Representative Smithee—Senate Sponsor: Senator Hegar

The Texas Universal Service Fund (TUSF) operates by collecting an assessment on all telecommunications providers and distributing those funds back among the telecommunications providers to support services in high cost and rural areas. Advances in technology and the way services are provided have meant a steady decrease in access lines. However, the cost to meet the services needs of customers have increased. To reach a balance for access line support and support needed, some companies now must go through a very involved and often costly process to attempt to adjust their support levels. This bill:

Authorizes PUC, except as provided by sections of this bill, 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 an opportunity for hearing.

Requires PUC, on the written request of a small or rural incumbent local exchange company that receives monthly per line support amounts, to disburse funds to the company in fixed monthly amounts based on the company's annualized amount of recovery for the calendar year ending on December 31, 2010.

Requires PUC annually, on the written request of a small or rural incumbent local exchange company that is not an electing company under Chapter 58 (Incentive Regulation) or 59 (Infrastructure Plan), to set the company's monthly support amounts for the following 12 months by dividing by 12 the annualized support amount calculated.

Sets forth requirements for the calculation of the annualized amount.

Authorizes PUC, on its own motion or on the written request of the company, if a company elects to receive monthly support amounts, to initiate a proceeding to recalculate the most recent annualized support amount to be used as the basis for adjustment for a subsequent 12-month period.

Provides that if, based on the recalculation, PUC by order adjusts a company's most recent annualized support amount, the adjusted support amount supersedes the annualized support amount calculated in accordance with other sections of this bill.

Requires PUC to administratively review requests and requires PUC, except for good cause, to approve the request not later than the 60th day after the date PUC determines the company is eligible and has met all the procedural requirements.

Authorizes PUC 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, after notice and an opportunity for hearing.

Requires PUC, in determining appropriate monthly per line support amounts, to consider the adequacy of basic rates to support universal service.

Public Financial Literacy Resources—H.B. 2615

by Representative Veasey—Senate Sponsor: Senator Rodriguez

Financial literacy resources offer individuals the knowledge and skills that are needed to manage their money responsibly. Although financial literacy education is included in Texas students' curriculum, citizens often find themselves overwhelmed by a variety of money challenges once they reach adulthood. This bill:

Requires the consumer credit commissioner to collect information on programs, including classes, and other resources available to the public that focus on teaching financial literacy, compile the information into a one-page document, and post the document on the Office of Consumer Credit Commissioner's Internet website.

Requires a health and human services agency to ensure that the one-page document is offered to persons who receive services from the agency at locations at which those persons frequently access services provided by the agency.

Requires the consumer credit commissioner to periodically update the information contained in the one-page document.

Classification of Political Subdivisions According to Population—H.B. 2702

by Representative Solomons—Senate Sponsor: Senator Eltife

Many statutes restrict their provisions from general applicability and instead limit such application to a certain class of political subdivisions by means of a population bracket that establishes an upper or lower limit or both for the target class of political subdivision. A reference in a statute to the population of a political subdivision means the population according to the most recent federal census. However, as population data changes with the release of each federal census, the political subdivision for which the population bracket was designed may no longer be in the bracket and consequently no longer subject to the application of the law. This bill:

Updates population brackets as necessary using the new census data contained in the 2010 federal census so that statutes using those brackets continue to apply to the political subdivisions to which they applied when the statute took effect.

Processing Fee for Dishonored Payment Device—H.B. 2793

by Representative Hunter—Senate Sponsor: Senator Hinojosa

Current statute allows someone who holds a dishonored payment (such as a retailer, grocery store, merchant, bank, or check processing company) to charge the "drawer or endorser" a "reasonable processing fee of not more than \$30." The processing fee serves as a deterrent to writing bad checks and allows entities an opportunity to recover costs associated with processing bad checks. The language in current statute has created some confusion regarding what constitutes a "reasonable" processing fee. This bill:

Provides that on return of a payment device to the holder following dishonor of the payment device by a payor, the holder, the holder's assignee, agent, or representative, or any other person retained by the holder to seek collection of the face value of the dishonored payment device may charge the drawer or indorser a maximum processing fee of \$30.

Exercise of Certain Constitutional Rights—H.B. 2973

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

A strategic lawsuit against public participation (SLAPP) is a lawsuit that is intended to censor, intimidate, and silence critics by burdening them with the cost of a legal defense until they abandon their criticism or opposition. Approximately 27 states have passed anti-SLAPP laws or similar acts that allow defendants in such cases to dismiss cases earlier than would otherwise be possible, limiting costs and fees. This bill:

Creates Chapter 27 (Actions Involving the Exercise of Certain Constitutional Rights) in the Civil Practice and Remedies Code.

Defines "communication," "exercise of the right of association," "exercise of the right of free speech," "exercise of the right to petition," "governmental proceeding," "legal action," "matter of public concern," "official proceeding," and "public servant."

Establishes that the purpose of Chapter 27, Civil Practice and Remedies Code, is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.

Allows a party to file a motion to dismiss a legal action if the legal action is based on or in response to a party's exercise of the right of free speech, right to petition, or right of association.

Requires that a motion to dismiss a legal action be filed not later than the 60th day after the date of service of the legal action, but authorizes the court to extend the time to file a motion on a showing of good cause.

Provides that on a filing of a motion to dismiss, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.

Requires that a hearing on a motion to dismiss be set not later than the 30th day after the date of service of the motion unless the docket conditions of the court require a later hearing.

Requires the court to rule on a motion to dismiss not later than the 30th day following the date of the hearing on the motion.

Requires a court to dismiss a legal action against the moving party if the moving party shows by a preponderance of evidence that the legal action is based on or is in response to the party's exercise of the right of free speech, the right to petition, or the right of association.

Prohibits the court from dismissing the legal action if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

Requires the court, in determining whether a legal action should be dismissed, to consider the pleadings and supporting and opposing affidavits stating the facts on which the liability of defense is based.

Authorizes the court to allow specified and limited discovery relevant to the motion to dismiss on a motion by a party or on the court's own motion and on a showing of good cause.

Requires the court, at the request of a party making a motion to dismiss, to issue findings regarding whether the legal action was brought to deter or prevent the moving party from exercising constitutional rights and is brought for an improper purpose, including to harass or to cause unnecessary delay or to increase the cost of litigation, not later than the 30th day after the date a request is made.

Provides that the motion to dismiss is considered to have been denied by operation of law if the court does not rule on the motion in the time prescribed and allows the moving party to appeal.

Requires an appellate court to expedite an appeal or other writ from a trial court order on a motion to dismiss a legal action or from a trial court's failure to rule on the motion in the time prescribed.

Requires that an appeal or other writ be filed on or before the 60th day after the date the trial court's order is signed or the time prescribed expires.

Requires the court, if the court orders dismissal of a legal action, to award to the moving party court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action and sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing any similar actions.

Authorizes the court, if the court finds that a motion to dismiss is frivolous or solely intended to delay, to award court costs and reasonable attorney's fees to the responding party.

Provides that Chapter 27, Civil Practice and Remedies Code, does not apply to an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney; a legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods and services in which the intended audience is an actual or potential buyer; or a legal action seeking recovery for bodily injury, wrongful death, or survival or to statements made regarding that legal action.

Establishes that Chapter 27, Civil Practice and Remedies Code, does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions and shall be construed liberally to effectuate its purpose and intent fully.

Authorization to Disconnect State Computer Networks From the Internet—H.B. 3333

by Representative Pena—Senate Sponsor: Senator Hegar

DIR occasionally detects threats to state networks that require the disconnection of network segments from each other or from the Internet. This prevents infections, intrusions, or other problems from spreading to other state agencies. The power to partially or entirely disconnect state networks is standard practice, but it is not a power explicitly provided to the governor or agencies acting on the governor's behalf. This bill:

Authorizes the governor to order DIR to disconnect a computer network from the Internet in the event of a substantial external threat to the computer network.

Requires DIR to disconnect the computer network of an entity receiving security services under this chapter from the Internet if the governor issues such an order to disconnect the network because of a substantial external threat to the entity's computer network.

Emergency Medical Services Liens—H.B. 3337

by Representatives Veronica Gonzales and Laubenberg—Senate Sponsor: Senator Hinojosa

Hospitals are able to secure a lien against a patient for amounts owed as a result of services provided in connection with an injury from an accident. Emergency medical services providers have this ability only in counties with a population of 575,000 or less. This bill:

Provides that an emergency medical services provider has a lien on a cause of action or claim of an individual who receives emergency medical services in a county with a population of 800,000 or less for injuries caused by an accident that is attributed to the negligence of another person.

Persons with Disabilities History and Awareness Month—H.B. 3616

by Representatives Naishtat and Raymond—Senate Sponsor: Senator Ellis et al.

Subchapter D (Recognition Months), Chapter 662 (Holidays and Recognition Days, Weeks, and Months), Government Code, establishes certain months to honor causes or events in order to educate, increase public awareness, and encourage public understanding and change, if necessary, for various issues in Texas. This bill:

Establishes October as Persons With Disabilities History and Awareness Month to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities.

Requires that Persons With Disabilities History and Awareness Month be regularly observed by appropriate celebration and activities to promote respect for and better treatment of people with disabilities and authorizes schools to observe Persons With Disabilities History and Awareness Month and determine the appropriate activities by which the school observes the month.

Eminent Domain Authority—S.B. 18

by Senators Estes and Duncan—House Sponsor: Representative Geren et al.

The Fifth Amendment to the United States Constitution prohibits the taking of private property for public use without just compensation, commonly referred to as the "takings clause." The Texas Constitution prohibits a person's

property from being taken, damaged, or destroyed for public use without adequate compensation, unless by consent of that person. This bill:

Provides that an independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district.

Provides that a governmental or private entity may not take private property through the use of eminent domain if the taking is not for a public use.

Establishes that the provisions regarding the limitations on purpose and use of property acquired through eminent domain do not affect the authority of an entity authorized by law to take a private property through the use of eminent domain for the operation of a common carrier pipeline.

Establishes that provisions regarding limitations on easements apply only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

Allows a property owner whose property is acquired through the use of eminent domain for the purpose of creating an easement through the owner's property to construct streets or roads at any location above the easement.

Requires that a street or road constructed within the area covered by the easement cross the easement at or near 90 degrees and prohibits it from exceeding 40 feet in width, causing a violation of any applicable pipeline regulation, or interfering with the operation and maintenance of any pipeline.

Requires the property owner to submit plans for construction of a street or road that will be located wholly or partly in an area covered by an easement used for a pipeline at least 30 days before construction is scheduled to begin.

Adds Subchapter B (Procedures Required to Initiate Eminent Domain Proceedings) to Section 2206 (Limitations on use of Eminent Domain) of the Government Code, with the short title as the Truth in Condemnation Procedures Act.

Requires a governmental entity, before initiating a condemnation proceeding, to authorize the initiation of the condemnation proceeding at a public meeting by a record vote and include in the notice for the public meeting the consideration of the use of eminent domain to condemn property as an agenda item.

Authorizes that a single ordinance, resolution, or order be adopted for all units of property to be condemned if the motion required indicates the first record vote applies to all units of property to be condemned and the minutes of the governmental entity reflect that the first vote applies to all of those units.

Requires that a separate record vote be taken for each unit of property if more than one member of the governing body objects.

Authorizes two or more units of real property owned by the same person to be treated as one unit of property.

Establishes the form in which the motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings must be made.

Allows a governmental entity to adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings if a project for a public use will require the acquisition of multiple tracts or units of property to construct facilities connecting one location to another location.

Provides that the multiple tracts or units of property do not have to be identified in an ordinance, resolution, or order but that the ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity.

Requires an entity authorized by the state to exercise the power of eminent domain to submit to the comptroller of public accounts (comptroller), not later than December 31, 2012, a letter stating that the entity is authorized to exercise the power of eminent domain.

Provides that the authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter to the comptroller.

Requires the comptroller, not later than March 1, 2013, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council 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 that submitted a letter.

Requires the Texas Legislative Council to prepare for consideration by the 84th Legislature, Regular Session, a nonsubstantive revision of the statutes as necessary to reflect the state of the law after the expiration of an entity's eminent domain authority.

Requires an entity with eminent domain authority that wants to acquire real property for a public use to, by certified mail, return receipt requested, disclose to the property owner at the time an offer to purchase or lease the property is made any and all appraisal reports produced or acquired by the entity relating specifically to the owner's property and prepared in the 10 years preceding the date of the offer.

Requires a property owner to disclose to the entity seeking to acquire the property any and all current and existing appraisal reports produced or acquired by the property owner relating specifically to the owner's property and used in determining the owner's opinion of value and requires that such disclosure take place not later than the earlier of the 10th day after the date of receipt of an appraisal report or the third business day before the date of a special commissioner's hearing if an appraisal report is to be used at the hearing.

Provides that an entity seeking to acquire property that the entity is authorized to obtain through the use of eminent domain may not include a confidentiality provision in an offer or agreement to acquire the property and must inform the owner of the property that the owner has the right to discuss any offer or agreement regarding the entity's acquisition of the property with others or keep the offer or agreement confidential, unless the offer or agreement is subject the Open Records Act.

Requires that an entity with eminent domain authority that wants to acquire real property for a public use make a bona fide offer to acquire the property from the property owner voluntarily and establishes the provisions of a bona fide offer.

Provides that if an entity with eminent domain authority wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the entity may begin a condemnation proceeding by filing a petition in the proper court that must include the intended public use of the property and state that a bona fide offer was provided for the property.

Requires that the judge of a court appoint three disinterested real property owners as commissioners to assess the damages of the owner of the property being condemned and provide each party a reasonable period to strike one of the three commissioners appointed by the judge, for which replacements will be appointed.

Provides that the appointed commissioners may not schedule a hearing to assess damages before the 20th day after the date the commissioners were appointed and must schedule a hearing at a place that is as near as practical to the property being condemned.

Requires that an entity with eminent domain authority disclose to the property owner that the owner or the owner's heirs may be entitled to repurchase the property or request from the entity certain information relating to the use of the property and any actual progress made toward that use and that the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.

Provides that an entity that is not subject to the Open Records Act and is authorized to acquire private property through the use of eminent domain is required to produce information if requested by a person who owns property subject to an eminent domain proceeding and related to the taking of the person's property.

Requires an entity that is not subject to the Open Records Act and is authorized to acquire private property through the use of eminent domain to produce information relating to the condemnation of the property owned by the requestor and to respond to a request in accordance with the Texas Rules of Civil Procedure.

Establishes which court or courts have jurisdiction over condemnation proceedings.

Authorizes the court to award the requestor reasonable attorney's fees incurred to compel the production of information if the entity refuses to produce the requested information.

Provides that material impairment of direct access to property be considered by the appointed commissioners in estimating injury or benefit to the property owner.

Requires a department, agency, instrumentality, or political subdivision to provide a relocation advisory service that is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Requires the state or political subdivision, as a cost of acquiring real property through the authority of eminent domain, to pay moving expenses and other financial assistance to acquire replacement housing.

Provides that if a court determines that a condemnor did not make a bona fide offer to acquire the property, the court shall abate the suit, order the condemnor to make a bona fide offer, and order the condemnor to pay all costs and any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

Entitles a person from whom a real property is acquired by an entity through eminent domain or that person's heirs to repurchase the property if the public use for which the property was acquired is canceled before the property is used for that public use; no actual progress is made toward the public use for which the property was acquired within 10 years of acquisition; or the property becomes unnecessary for the public use for which the property was acquired.

Lists actions that may be considered in determining "actual progress."

Authorizes a district court to determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

Requires the entity that acquired property through the authority of eminent domain to notify the previous property owner, not later than the 180th day after the date the property was acquired, that the former property owner is entitled to repurchase the property under the provisions that allow for the repurchase of property.

Provides that a property owner or the property owner's heirs may request, on or after the 10th anniversary of the date the property was acquired, that the condemning entity make a determination and provide a statement and other relevant information regarding the public use of the land and the progress and additional information regarding that end.

Establishes that the right to repurchase is extinguished on the first anniversary of the expiration of the period for an entity to provide notice if the entity makes a good faith effort to locate and provide notice to each person entitled to notice before the expiration of the deadline for providing notice and does not receive a response.

Requires that the property owner or the owner's heirs, not later than the 180th day after the date of the notice or response sent regarding the entitlement to repurchase the property, notify the entity of the person's intent to repurchase the property.

Requires that as soon as practicable after the receipt of a notice of intent to repurchase, the entity shall offer to sell the property interest to the person for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.

Provides that the standard for determination of the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that is applied by the Texas Transportation Commission in the acquisition of access rights and payment of damages in the exercise of the authority for impairment of highway access to or from real property where the real property adjoins the highway.

Provides that a district may not exercise the power of eminent domain outside the district boundaries to acquire a site or easement for a road project.

Establishes that a charitable corporation may not exercise the power of eminent domain and condemnation to acquire a detached, single-family residential property or a multifamily residential property that contains eight or fewer dwelling units.

Civil Liability in Sexual Exploitation of a Patient—S.B. 43

by Senator Zaffirini—House Sponsor: Representative Raymond

Under existing law, a psychiatric institution is not held liable for an employee's sexual exploitation of a patient unless the institution had "reason to believe" that the abuse would occur. The Civil Practice and Remedies Codes describes the victim as "the person" instead of "a" or "any" person; therefore, "reason to believe" can only be established if the employee abused the same person twice. This bill:

Establishes that an employer of a mental health services provider is liable to a patient or former patient of the mental health services provider for damages if the patient or former patient is injured and the employer knows or has reason to know that the mental health services provider engaged in sexual exploitation of a patient or former patient and the employer failed to report the suspected sexual exploitation.

Establishes that an employer or former employer of mental health services provider is liable to a patient or former patient of the mental health services provider for damages if the patient or former patient is injured and the employer or former employer knows of the occurrence of sexual exploitation by the mental health services provider of a patient or former patient and fails to disclose the occurrence of the sexual exploitation.

Exemptions From Jury Service—S.B. 85*by Senator Nelson—House Sponsor: Representative Solomons*

The Government Code requires the tax assessor-collector to maintain a file of permanent exemptions from jury duty but requires the voter registrar to submit that list to the secretary of state. This bill:

Transfers the duties of the county tax assessor-collector regarding exemptions from jury service to the voter registrar.

Limiting the Liability of Space Flight Entities—S.B. 115*by Senators Uresti and Deuell—House Sponsor: Representative Gallego*

Private companies, know as “space flight entities,” are developing commercial space launches to allow private citizens to fly into low earth orbit. Customers and consumers routinely sign liability waivers for a variety of activities and endeavors, yet case law precedent allows plaintiffs to sue those the liability waivers supposedly protect. This bill:

Defines “launch,” “reentry,” “space flight activities,” “space flight entity,” “space flight participant,” and “space flight participant injury.”

Provides that a space flight entity is not liable to any person for a space flight participant injury or damages arising out of the space flight participant injury if the space flight participant has signed the required agreement and given written consent.

Provides that liability is not limited for an injury proximately caused by the space flight entity's gross negligence evidencing willful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity.

Requires that a space flight participant sign an agreement and warning statement before participating in any space flight activity and establishes language that must be included in the agreement, including any other language required by federal law.

Pledge of Allegiance to the State Flag—S.B. 258*by Senators Hegar and Nelson—House Sponsor: Representative Zerwas*

The Government Code establishes the provisions for the official retirement ceremony for the state flag. In 2007, the Texas Legislature enacted legislation requiring that the phrase “under God” be included in the Texas state pledge. This bill:

Includes the phrase “one state under God” to the pledge of allegiance to the state flag during a state flag retirement ceremony.

Veterans Service Organizations and State Contracting—S.B. 327*by Senators Van de Putte and Davis—House Sponsor: Representative Garza*

In a typical process to obtain a state term contract, the State of Texas issues a request for proposals, solicits responses from vendors, including HUBs vendors, and awards the contract to the best value vendor. For the Texas Multiple Award Schedule (TXMAS) program, this competitive process is handled by GSA. The TXMAS program focuses on the federal contracts put in place by the United States General Services Administration (GSA). GSA

creates a schedule of contracts for federal agencies to use. Chapter 2155 (Purchasing: General Rules and Procedures), Government Code, allows the State of Texas to create state contracts from these GSA contracts. Adding a veterans service agency to the group that is eligible to act as a dealer for a TXMAS contract does not affect the HUB program or change the HUB eligibility requirements. TXMAS contractors are able to add dealers to their underlying federal contract fairly easily already.

Currently, the law allows HUB vendors to be added to the TXMAS contract as dealers, even if the underlying federal contract does not include them as such. This bill:

Adds a veterans service agency to the group that is eligible to act as a dealer for TXMAS contracts.

Defines veterans service agency as a small business.

Authorizes state agencies to order TXMAS products through any dealer authorized by the TXMAS supplier.

Notice of Hospital Lien—S.B. 328

by Senator Carona—House Sponsor: Representative Deshotel

The Property Code allows a hospital or an emergency medical services provider to secure a lien against a patient for amounts owed as a result of services provided by the hospital or emergency services provider in connection with an injury resulting from an accident. The lien may be secured against a cause of action, or monies received by the injured patient from a lawsuit based on the accident in which the individual was injured. Because the statute allowing a hospital or an emergency services provider to secure such a lien is located in the Property Code, injured patients may believe the lien encumbers real property owned by them. This bill:

Requires a hospital or emergency medical services provider, to secure a lien, to provide notice to the injured individual.

Requires the hospital or emergency medical services provider, not later than the fifth business day after the date a hospital or emergency medical services provider receives notice from the county clerk that a notice of lien has been recorded in the county records, to send a written notice to the injured individual or the injured individual's legal representative, by regular mail, to the individual's last known address, informing 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.

Establishes that an emergency medical services provider is not required to provide notice by mail if the emergency medical services provider provides the notice to the injured individual or the injured individual's representative at the time emergency medical services are provided and if the required notice is included on the emergency medical service authorization form in a paper or electronic version in a separate paragraph that is bolded and in at least 14-point type and the notice is signed by the injured individual or the injured individual's representative.

Establishes that if consent for emergency care of an individual is not required, notice provided on an emergency medical services authorization form to the injured individual is not required to be signed.

Establishes that failure of an individual to receive a mailed notice does not affect the validity of a lien.

Review of Invoices Related to Legal Services Provided by Outside Counsel—S.B. 367*by Senator Ogden—House Sponsor: Representative Cook*

All state agencies and institutions of higher education, except agencies established by the Texas Constitution, are required to obtain review and approval from OAG in order to contract for outside legal services. The Government Code requires OAG to either provide state agencies with legal representation or approve the use of outside counsel when such representation is in the best interest of the state. OAG has statutory authority and a well-established process for reviewing and approving an agency's request to retain outside counsel and the contract with outside counsel.

Although OAG is not statutorily required to do so, most invoices associated with the costs of providing those services are reviewed by OAG and certified to the comptroller of public accounts that the expenses incurred are appropriate for payment. This bill:

Requires that an invoice submitted to a state agency under a contract for legal services be reviewed by OAG to determine whether the invoice is eligible for payment.

Requires an attorney or law firm to pay an administrative fee to OAG for the review of an invoice when entering into a contract to provide legal services to a state agency.

Authorizes OAG to adopt rules as necessary to implement and administer these provisions.

State Fire Marshal Investigation of an On-Duty Death of a Firefighter—S.B. 396*by Senator Deuell—House Sponsor: Representative Marquez*

Current law gives the state fire marshal the authority to investigate the line-of-duty death of a firefighter in connection with a fire-fighting incident. The goal of these investigations is to identify factors contributing to the firefighter's death and to use that information to prevent future incidents. Apart from line-of-duty deaths resulting from fire-fighting incidents, firefighter deaths may occur in connection with other on-duty incidents, including fire-based emergency medical services, motor vehicle collisions en route to a fire, and training or hazardous materials incidents. Statute is unclear on the state fire marshal's authority to investigate these deaths, and as a result, the firefighting community misses an opportunity to prevent future incidents. This bill:

Requires the state fire marshal, if a firefighter dies in the line of duty or if the firefighter's death occurs in connection with an on-duty incident, to investigate the circumstances surrounding the death of the firefighter to determine the factors that may have contributed to the death.

Notice of the Filing of a Foreign Judgment—S.B. 428*by Senator Huffman—House Sponsor: Representative Thompson*

Judgment creditors may seek enforcement of a foreign judgment—one from any court of the United States or any other court entitled to full faith and credit in Texas—under the Texas Civil Practice and Remedies Code. At the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney must file an affidavit with the clerk of the court showing the last known postal address of the judgment debtor and the judgment creditor. Once the creditor files this affidavit, the clerk must promptly mail notice of the filing of a foreign judgment to the judgment debtor and note it in the court's docket sheet. This bill:

Requires the judgment creditor or the judgment creditor's attorney to promptly mail notice of the filing of the foreign judgment to the judgment debtor at the address provided for the judgment debtor and file proof of mailing of the notice with the clerk of the court.

Requires the clerk of the court, on receipt of proof of mailing, to note the mailing in the docket.

Payment of Lottery Winnings—S.B. 626

by Senator Carona—House Sponsor: Representative Thompson

The Texas Lottery Act requires mandatory deduction from the prize winnings of a person for certain delinquent amounts owed to the state. Such delinquencies include tax or other money owed to the comptroller of public accounts (comptroller), the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission. A mandatory deduction from prize winnings is also required for delinquent child support payments administered or collected by the attorney general. This bill:

Defines "prize winner" as a person who presents a valid winning ticket, claims a lottery prize, and is recognized by the Texas Lottery Commission (lottery commission) as the person entitled to receive lottery prize payments and does not include an assignee of a lottery prize.

Requires the executive director of the lottery commission (director) to deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the comptroller.

Requires the director to deduct delinquent child support payments from the winning of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D (federal child support enforcement provisions of the Social Security Act) agency.

Requires the director to transfer the amount deducted to the appropriate agency or to the state disbursement unit.

Provides that deductions of child support from lottery winnings includes a prize paid in periodic installments.

Requires the director, in the event of a single payment, to deduct from winnings of the prize winner an amount for delinquent child support owed by the prize winner if the director has been provided with a certified copy of a court order or a writ of withholding or notice of a child support lien.

Requires the director, if the prize is paid in periodic installments, to deduct from periodic installment winnings paid to a prize winner amounts owed by the prize winner for child support.

Establishes that the deduction for child support payments does not apply to the payment of amounts to a person to whom the prize winner assigns the right to receive prize payments.

Requires the director, if the winnings of a prize winner exceed the amount deducted, to pay the balance to the prize winner and to transfer the money deducted to the appropriate person, as determined by court order, or the state disbursement unit.

Authorizes the lottery commission to adopt rules necessary to implement this legislation.

Establishes that certain provisions of the Business & Commerce Code do not apply to periodic payments of lottery prize winnings.

Provides that a person may not assign the right to receive prize payments if the person is subject to a child support order and is delinquent in making support payments.

Provides that a district court shall issue an order approving a voluntary assignment and directing the lottery commission to direct prize payments in whole or in part to the assignee if the assignor provides a sworn and notarized affidavit stating that the assignor is not delinquent in payment of child support under a court or administrative order issued in this state or another state.

Repeal of Certain Legislative Oversight Committees—S.B. 781

by Senator Carona—House Sponsor: Representative Cook

Over the past decade, a number of legislative oversight committees have been created to address certain major changes within industries under the jurisdiction of the Senate Committee on Business & Commerce. Some of these committees, including the Property and Casualty Insurance Oversight Committee, the Electric Utility Restructuring Legislative Oversight Committee, and the Telecommunications Competitiveness Legislative Oversight Committee, have become obsolete, having not held a meeting or produced a report as required by law since 2004, if ever. This bill:

Repeals:

- Chapter 1801 (Property and Casualty Insurance Legislative Oversight Committee), Insurance Code;
- Section 39.907 (Electric Utility Restructuring Legislative Oversight Committee), Utilities Code;
- Subchapter F (Telecommunications Competitiveness Legislative Oversight Committee), Chapter 65 (Deregulation of Certain Incumbent Local Exchange Company Markets), Utilities Code; and
- Section 2059.060 (Vulnerability Testing of Network Hardware and Software), Government Code.

Venue Projects in Certain Counties—S.B. 803

by Senator Hegar—House Sponsor: Representative Hunter

Under current law there is some confusion about what the definition of "venue" found in Section 334.001 (Definitions), Local Government Code, encompasses. There is also some concern that provisions relating to whether the authorized uses of local tax revenue for sports and community venue projects include a venue tax to finance venues unique to coastal counties. This bill:

Defines "venue" to include a tourism development project 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.

Authorizes 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 as a venue project.

Licensing Testing Accommodations for Persons Suffering from Dyslexia—S.B. 867

by Senator Deuell—House Sponsor: Representative Jim Jackson

Persons with dyslexia may succeed in a variety of areas if they are given an opportunity. At times people suffering from dyslexia may need accommodation, especially regarding taking written tests. Such accommodation may include extra time to take the examination or allowing the use of an electronic device. It is not clear that persons with dyslexia qualify for accommodation under the Americans with Disabilities Act (ADA). There have been lawsuits from

persons with dyslexia who were not given a fair chance on an examination, but the ADA Amendments Act of 2008 strengthened the position of persons with dyslexia. This bill:

Requires a state agency, for each licensing examination administered by the agency, to provide reasonable examination accommodations to an examinee diagnosed as having dyslexia.

Requires each state agency to adopt rules necessary to implement this section, including rules to establish the eligibility criteria an examinee must meet for accommodation under this section.

Requires each state agency that offers a licensing examination to adopt rules to implement the preceding provisions, no later than December 1, 2011.

Approval of a Settlement of a Claim or Action Against the State—S.B. 899

by Senators Ogden and West—House Sponsor: Representative Schwertner

In 2007, the 80th Legislature passed S.B. 2031. That bill amended the Civil Practice and Remedies Code to ensure that the legislature determines the extent to which the state waives its sovereign immunity with regard to a settlement of a claim or action against the state that requires an expenditure of state funds exceeding \$25 million, or that commits the state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums. The requirement of legislative approval does not apply to a refund or a tax, fee, or any related penalty or interest. While the legislature has the authority to approve any settlement, it recognized that doing so is impractical in every case, and the legislature has chosen to apply the authority specifically to cases involving substantial amounts of funds. Approval of a settlement is granted by a resolution adopted by both houses of the legislature. This bill:

Prohibits the attorney general or other attorney representing this state from entering into a settlement of a claim or action against this state without the consent or approval of the legislature in accordance with Chapter 111 (Limitation on Settlement of Claim or Action Against the State), Civil Practice and Remedies Code, if the settlement requires this state to pay total monetary damages in an amount that exceeds \$10,000,000 in a state fiscal biennium or commits this state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal biennia.

Communications Services and Markets—S.B. 980

by Senators Carona and Van de Putte—House Sponsor: Representative Hancock

Incumbent local exchange carriers (ILECs) started the process of deregulating telecommunication markets in 1995. Since that time, technology has changed and competition has increased and many of the regulatory tools and requirements used to ensure competition are no longer needed. PUC is authorized to require ILECs to file annual earnings reports. PUC, carriers, and customers initiate the establishment of an extended area service or an expanded local calling (ELC) plan. This bill:

Provides that to encourage and accelerate the development of a competitive and advanced telecommunications environment and infrastructure, rules, policies, and principals must be reformulated to reduce regulation of incumbent local exchange companies, ensure fair business practices, and protect the public interest.

Prohibits 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 PUC imposes on a public utility.

Prohibits a department, agency, or political subdivision of this state, notwithstanding any other law, from by rule, order, or other means directly or indirectly 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 and provides that this provision does not:

- affect requirements pertaining to use of a right-of-way or payment of right-of-way fees applicable to VOIP services under Chapter 283 (Management of Public Right-of-Way Used by Telecommunications Provider in Municipality), Local Government Code;
- affect any person's obligation to provide video or cable service, as defined under applicable state or federal law, the applicability of Chapter 66 (State-Issued Cable and Video Franchise), Utilities Code, or a requirement to make a payment under Chapter 66;
- require or prohibit assessment of enhanced 9-1-1, relay access service, or universal service fund fees on VOIP service;
- affect any entity's obligations under Sections 251 and 252, Communications Act of 1934 (47 U.S.C. Sections 251 and 252), or a right granted to an entity by those sections;
- affect any applicable wholesale tariff;
- grant, modify, or affect the authority of PUC to implement, carry out, or enforce the rights or obligations provided by Sections 251 and 252, Communications Act of 1934 (47 U.S.C. Sections 251 and 252), or of an applicable wholesale tariff through arbitration proceedings or other available mechanisms and procedures;
- require or prohibit payment of switched network access rates or other intercarrier compensation rates, as applicable;
- limit any PUC authority over subjects or grant PUC any authority over those subjects; or
- affect the assessment, administration, collection, or enforcement of any tax or fee over which the comptroller has authority.

Provides that a telecommunications provider that is not subject to rate of return regulation under Chapter 53 (Rates), Utilities Code, is authorized, but is not required, to maintain on file with PUC tariffs, price lists, or customer service agreements governing the terms of providing service; is authorized to make changes in its tariffs, price lists, and customer service agreements in relation to services that are not subject to regulation without PUC approval; and is authorized to cross-reference its federal tariff in its state tariff if the provider's intrastate switched access rates are the same as the provider's interstate switched access rates.

Authorizes a telecommunications provider to withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with PUC if the telecommunications provider files written notice of the withdrawal with PUC, and notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on the telecommunications provider's Internet website.

Provides that the regulatory treatments PUC are authorized to implement under Section 52.054 (Rules and Procedures for Incumbent Local Exchange Companies), Utilities Code, include approval of a range of rates for a specific service and the detariffing of rates.

Provides that Subchapter G (Provider of Last Resort), Chapter 54 (Certificates), Utilities Code, applies to a transitioning company in relation to its regulated exchanges in the same manner and to the same extent it applies to a holder of a certificate of convenience and necessity.

Prohibits 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 and prohibits PUC, on or after September 1, 2011, from ordering an expansion of a toll-free local calling area.

Requires that PUC rules for the administration of the universal service fund include procedures to ensure reasonable transparency and accountability in the administration of the universal service fund.

Prohibits an incumbent local exchange company from receiving support from the universal service fund for a deregulated market that has a population of at least 30,000.

Authorizes an incumbent local exchange company to receive support from the universal service fund for a deregulated market that has a population of less than 30,000 only if the company demonstrates to PUC that the company needs the support to provide basic local telecommunications service at reasonable rates in the affected market.

Requires a market that is deregulated as of September 1, 2011, to remain deregulated and prohibits PUC, notwithstanding any other provision of this title, from reregulating a market or company that has been deregulated.

Authorizes an incumbent local exchange company to petition PUC to deregulate a market of the company that PUC previously determined should remain regulated.

Prohibits PUC, in making a determination, from determining that a market should remain regulated if the population in the area included in the market is at least 100,000; or the population in the area included in the market is less than 100,000 and, in addition to the incumbent local exchange company, there are at least two competitors operating in all or part of the market that are unaffiliated with the incumbent local exchange company, and provide voice communications service without regard to the delivery technology, through Internet Protocol or a successor protocol, satellite, or a technology used by a wireless provider or a commercial mobile service provider.

Requires PUC, if PUC deregulates a market and the deregulation results in a regulated or transitioning company no longer meeting the definition of a regulated or transitioning company, to issue an order reclassifying the company as a transitioning company or deregulated company.

Provides that a deregulated company that holds a certificate of operating authority is not required to fulfill the obligations of a provider of last resort; comply with retail quality of service standards or reporting requirements; file an earnings report with PUC unless the company is receiving support from the Texas High Cost Universal Service Plan; comply with a pricing requirement other than a prescribed requirement; and is subject to certain provisions in the same manner as an incumbent local exchange company that is not deregulated.

Authorizes a deregulated company to offer to an individual residential customer a promotional offer that is not available uniformly throughout the market if the company makes the offer through a medium other than direct mail or mass electronic media and the offer is intended to retain or obtain a customer.

Provides that a transitioning company is not required to fulfill the obligations of a provider of last resort in a deregulated market.

Authorizes a transitioning company to exercise pricing flexibility in a market subject only to the price and rate standards prescribed by sections of this bill; and introduce a new service in a market subject only to the price and rate standards prescribed by this bill.

Prohibits a transitioning company from being required to comply with retail quality of service standards, or reporting requirements in a market that is deregulated, or file an earnings report with PUC unless the company is receiving support from the Texas High Cost Universal Service Plan.

Authorizes a transitioning company to offer to an individual residential customer a promotional offer that is not available uniformly throughout the market if the company makes the offer through a medium other than direct mail or mass electronic media and the offer is intended to retain or obtain a customer.

Provides that a transitioning company is not required to comply with certain requirements on submission of a written notice to PUC, including a direct or indirect requirement to price a residential service at, about, or according to the long-run incremental cost of the service or to otherwise use long-run incremental cost in establishing prices for residential services; or a requirement to file with PUC a long-run incremental cost study for residential or business services.

Prohibits a transitioning company from establishing a retail rate, price, term, or condition that is anticompetitive or unreasonably preferential, prejudicial, or discriminatory; establishing a retail rate for a basic or non-basic service in a deregulated market that is subsidized either directly or indirectly by a basic or non-basic service provided in an exchange that is not deregulated; or engaging in predatory pricing or attempt to engage in predatory pricing.

Provides that a rate or price for a basic local telecommunications service is not anticompetitive, predatory, or unreasonably preferential, prejudicial, or discriminatory if the rate or price is equal to or greater than the rate or price in the transitioning company's tariff for that service in effect on the date the transitioning company submits notice to PUC.

Authorizes an affected person to file a complaint at PUC challenging whether a transitioning company is complying with provisions of this bill.

Authorizes PUC to require a transitioning company to submit a long-run incremental cost study for a business service that is the subject of a complaint submitted.

Repeals Sections 52.057 (Customer-Specific Contracts), 53.065(b) (relating to incumbent local exchange company contracts), 65.052(d) (relating to classification of transitioning company), (e) (relating to classification of regulated company), (f) (relating to market tests), 65.054 (Petition for Deregulation), and 65.055 (Commission Authority to Reregulate Certain Markets), Utilities Code.

Requires PUC to initiate one or more proceedings to review and evaluate whether the universal service fund accomplishes the fund's purposes, as prescribed by Section 56.021 (Universal Service Fund Established), Utilities Code, or whether changes are necessary to accomplish those purposes.

Transfer of State Property to Angelina and Neches River Authority—S.B. 1058

by Senator Nichols—House Sponsors: Representatives White and Beck

Lufkin State Supported Living Center (Lufkin SSLC) owns and operates a small lift station. Wastewater from Lufkin SSLC flows through this lift station to the Angelina and Neches River Authority (ANRA) wastewater treatment plant. The lift station is located on .08 acre of land located between the main campus and the campus housing area.

The cost of maintaining this facility has averaged \$28,000 over the last five years. Because Lufkin SSLC discharges a higher-than-normal amount of solids into the septic system (e.g., washcloths, paper hand towels, et cetera), additional upgrades are needed to ensure continued operation. In June 2010, ANRA proposed installing a bar screen cleaner at the cost of approximately \$180,000. This cost is significantly higher than the value of the property and lift station, and statutes prohibit ANRA from issuing debt to perform capital improvements on property owned by another entity. This bill:

Transfers the lift station from the Lufkin SSLC, which is property owned by the Texas Department of Aging Disability Services, to ANRA.

Provides that if ANRA fails to use the property in the manner described by the agreement contained in the bill for more than 180 continuous days, ownership of the property automatically reverts to the Department of Aging and Disability Services.

Lease of State Parking Facilities—S.B. 1068

by Senator Ellis—House Sponsor: Representative Guillen

Current law does not adequately address the issue of leasing available space in state parking facilities. When revenues are scarce legislators seek innovative ways to raise money. Leasing parking spaces is one of those options. This bill:

Authorizes TFC to lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin if TFC determines the parking space to be in excess of the number of parking spaces sufficient to accommodate the regular parking requirements of state employees employed near the lot or garage and visitors to nearby state government offices.

Authorizes TFC to lease to an institution of higher education or a local government all or a significant block of such a state-owned parking lot or garage if TFC determines the parking spaces located in the lot or garage to be in excess of the number of parking spaces sufficient to accommodate the regular parking requirements described above.

Requires money received from such a lease to a private individual or to an institution of higher education or a local government to be deposited to the credit of the general revenue fund.

Requires TFC to ensure that such a lease does not restrict private, commercial uses for state-owned parking lots and garages developed by TFC for times outside of regular business hours, including special event parking related to institutions of higher education.

Requires TFC, in leasing or renewing a lease for a parking space, or all, or a block of a state-owned parking lot or garage under the bill's provisions, to give preference to an individual or entity that is currently leasing or previously leased the parking space, lot, garage, or a block of the lot or garage, as applicable.

Requires TFC, on or before October 1 of each even-numbered year, to submit a report to the Legislative Budget Board describing the effectiveness of parking programs developed by TFC under statutory provisions governing the lease of space in state-owned property to private tenants.

Requires the report to include the yearly revenue generated by the programs, the yearly administrative and enforcement costs of each program, yearly usage statistics for each program, and TFC initiatives and suggestions to modify program administration and increase revenue generated by the programs.

Revision of Local Laws and Special Districts—S.B. 1147

by Senator Duncan—House Sponsor: Representative Ritter

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law, if practicable, to promote the purpose of making the statutes more accessible, understandable, and usable without altering the sense, meaning, or effect of the law. This bill:

Continues Texas Legislative Council's ongoing project of systematically codifying local laws concerning special districts.

Adds chapters to the Special District Local Laws Code with each chapter representing the local law or laws governing a particular special district.

Proceedings Before the Federal Energy Regulatory Commission—S.B. 1153

by Senator Williams—House Sponsor: Representative Ritter

Currently, Entergy Texas, Inc. (ETI) is one of six operating companies within the Entergy system. These operating companies include Entergy Arkansas, Inc. (EAI), Entergy Louisiana LLC, Entergy Gulf States Louisiana LLC, Entergy Mississippi, Inc. (EMI), and Entergy New Orleans, Inc. Texas, Louisiana, Arkansas, Mississippi, and the city of New Orleans all set standards of service and retail rates, while the Federal Energy Regulatory Commission (FERC) regulates Entergy's wholesale power agreements and access to Entergy's transmission system. EAI and EMI have filed to leave the Entergy System. Since it is likely that a system agreement may not be met, it is necessary that PUC have proper representation in any proceedings related to this issue at FERC. This bill:

Authorizes PUC to retain any consultant, accountant, auditor, engineer, or attorney PUC considers necessary to represent PUC in a proceeding before FERC, or before a court reviewing proceedings of that federal commission, related to the relationship of an electric utility to a power region, regional transmission organization, or independent system operator; or the approval of an agreement among the electric utility and the electric utility's affiliates concerning the coordination of the operations of the electric utility and the electric utility's affiliates.

Authorizes assistance for which a consultant, accountant, auditor, engineer, or attorney may be retained to include conducting a study, conducting an investigation, presenting evidence, advising PUC, or representing PUC.

Requires the electric utility to pay timely the reasonable costs of the services of a person retained, as determined by PUC.

Prohibits the total costs an electric utility is required to pay from exceeding \$1.5 million in a 12-month period.

Requires PUC to allow the electric utility to recover both the total costs the electric utility paid and the carrying charges for those costs through a rider established annually to recover the costs paid and carrying charges incurred during the preceding calendar year.

Prohibits the rider from being implemented before the rider is reviewed and approved by PUC.

Requires PUC to consult the attorney general before PUC retains a consultant, accountant, auditor, or engineer.

Provides that the retention of an attorney is subject to the approval of the attorney general.

Requires that PUC be precluded from engaging any individual who is required to register as a lobbyist under Section 305.003 (Persons Required to Register), Government Code.

Liability of Landowners for Harm to Trespassers—S.B. 1160

by Senator Seliger—House Sponsor: Representative Jim Jackson

In Texas and most states, landowners generally owe no duty of care to trespassers and are not liable for their injuries. The American Law Institute's latest *Restatement Third of Torts* recommends that courts impose a broad

new duty on landowners to exercise reasonable care for all entrants on their land, including unwanted trespassers. This bill:

Provides that an owner, lessee, or occupant of agricultural land is not liable for 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, regardless of whether the damage or injury occurs on the agricultural land.

Provides that the owner, lessee, or occupant of agricultural land is not liable for 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 permission of the owner, lessee, or occupant.

Provides that this legislation does not limit the liability of an owner, lessee, or occupant of agricultural land for any damage or injury that arises from a willful or wanton act or gross negligence by the owner, lessee, or occupant.

Defines "trespasser" as a person who enters the land of another without any legal right, express or implied.

Provides 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 willfully, wantonly, or through gross negligence.

Provides that an owner, lessee, or occupant of land may be liable for injury to a child caused by a highly dangerous artificial condition on the land if the place where the artificial condition exists is one upon which the owner, lessee, or occupant knew or reasonably should have known that children were likely to trespass; the artificial condition is one that the owner, lessee, or occupant knew or reasonably should have known existed, and that the owner, lessee, or occupant realized or should have realized involved an unreasonable risk of death or serious bodily harm to such children; the injured child, because of the child's youth, did not discover the condition or realize the risk involved in intermeddling with the condition or coming within the area made dangerous by the condition; the utility to the owner, lessee, or occupant of maintaining the artificial condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and the owner, lessee, or occupant failed to exercise reasonable care to eliminate the danger or otherwise protect the child.

Provides that an owner, lessee, or occupant of land whose actions are justified under the provisions regarding the protection of persons or protection of property in the Penal Code is not liable to a trespasser for damages arising from those actions.

Establishes that this legislation does not create or increase the liability of any person.

Service Contracts and Identity Recovery Service Contracts—S.B. 1169

by Senator Carona—House Sponsor: Representative Hamilton

Service contract providers provide extended warranties to consumers for a specific period of time and for an additional cost beyond the price of a product. There has been an increase in bankruptcy of service contract companies, leaving the consumer who purchased the extended warranty with no protection. This bill:

Requires TCLR to adopt rules necessary to implement and administer Chapter 1304 (Service Contract Providers and Administrators), and Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), Occupations Code.

Prohibits a person from operating as a provider or administrator of service contracts or as a provider or administrator of identity recovery service contracts sold or issued in this state unless the person is registered with TDLR.

Prohibits a provider or administrator from contracting with or using the services of a person to perform an activity that requires registration with TDLR as a provider or administrator unless that person is appropriately registered.

Authorizes TDLR to refuse to issue or renew a registration, suspend or revoke a registration, or take any other disciplinary action under Chapter 1304 or Chapter 1306 if the applicant or a controlling person of the applicant:

- has violated Chapter 1304 or 1306 or a rule adopted or order issued by TDLR or the executive director of TDLR (executive director);
- has made a material misrepresentation or false statement in an application or in any document accompanying an application;
- has had a license issued under Title 13 (Regulation of Professionals), Insurance code, revoked as provided by that code; or
- has had a license or registration as a provider, administrator, or seller revoked in this state or another state.

Requires an applicant for issuance or renewal of a provider registration, in addition to other requirements, to file with the application the reimbursement insurance policy, if the provider is using a reimbursement insurance policy to meet certain financial security requirements; the financial security deposit and the documentation required by TDLR demonstrating adequate funding of the reserve account, if the provider is using a funded reserve account and financial security deposit to meet the financial security requirements; the proof necessary to demonstrate the applicant or its parent company maintains at least \$100 million net worth, if the applicant is using net worth to meet the financial security requirements; and information about each controlling person of the applicant in a form prescribed by the executive director.

Requires the executive director to develop a tiered schedule of registration and renewal fees under which a provider's fee is based on the number of service contracts the provider sold or issued in this state during the preceding 12-month period.

Requires each provider, to ensure the faithful performance of a provider's obligations to its service contract holders or identity recovery service contract holders, to maintain a funded reserve account covering the provider's obligations under its service contracts or identity recovery service contracts that are issued and outstanding in this state and place in trust with the executive director a financial security deposit consisting of, among other things, a statutory deposit of cash; or a certificate of deposit issued by a qualified financial institution.

Requires the provider to submit to the executive director on request a copy of the provider's financial statements that must be prepared in accordance with generally accepted accounting principles, be without qualification as to the going concern status of the provider, and be audited by an independent certified public accountant.

Requires TDLR by rule to require the provider to submit additional financial reports.

Authorizes the executive director, in the event of a provider's bankruptcy or a similar event affecting the ability of the provider to faithfully perform its obligations to its service contract holders or identity recovery service contract holders, to distribute any funds held in trust as financial security for the provider to eligible service contract holders or identity recovery service contract holders as payment for claims.

Requires a provider that maintained a funded reserve account not later than September 1, 2012, to submit to the executive director documentation that the provider is in compliance with the financial security requirements for service contracts or identity recovery service contracts sold or issued in this state on or after September 1, 2012.

Prohibits a provider that maintained a funded reserve account from selling or issuing a service contract on or after September 1, 2012, unless the provider is in compliance with provisions of this bill.

Authorizes a provider to employ or contract with a seller to be responsible for all or any part of the sale or marketing of service contracts or of identity recovery service contracts for the provider, and for compliance with Chapter 1304 and Chapter 1306 in connection with the sale or marketing of service contracts or identity recovery service contracts.

Requires that a service contract or an identity recovery service contract allow the service contract holder or identity recovery service contract holder to cancel the service contract or identity recovery service contract at any time and sets forth provisions for the cancellation of a service contract and an identity recovery service contract.

Prohibits a provider, administrator, seller, or other representative of the provider, in the provider's service contracts, the provider's identity recovery service contracts, or literature or in any oral or written communication, from making, permitting, or causing to be made any false, deceptive, or misleading statement, or deliberately omitting a material statement if the omission would be considered misleading.

Prohibits a person, including a bank, a savings loan association, a lending institution, or the manufacturer or seller of a product, from requiring the purchase of a service contract as a condition of a loan or the sale of property.

Prohibits a person regulated by Chapter 2301 (Sale or Lease of Motor Vehicles) from requiring the purchase of an identity recovery service contract as a condition of a loan or the sale of a vehicle.

Prohibits a provider, administrator, seller, or other representative of the provider from making a telemarketing call to a consumer as provided by Sections 304.002 (Administration of Compact) and 304.003 (Rules), Business & Commerce Code, unless the provider, administrator, seller, or representative has an established business relationship with the consumer.

Authorizes TCLR or the executive director, on a finding that a ground for disciplinary action exists under Chapter 1304 or Chapter 1306, to impose an administrative sanction or administrative penalty or seek a civil penalty or any other remedy as provided by Chapter 1304, Chapter 1306, and Chapter 51 (Texas Department of Licensing and Regulation).

Requires a person, if TCLR by order determines that the person has operated as a provider or administrator in this state without holding the appropriate registration under Chapter 1304 or Chapter 1306, to offer to a service contract holder or an identity recovery service contract holder who holds a contract sold or issued by the person during the period that the person was not registered the right to cancel the contract and obtain a refund of the full purchase price of the contract or retain the contract.

Authorizes TCLR or the executive director, by TCLR order, including an agreed order, if a seller fails to process a service contract application, an identity recovery service contract application, or a payment from a consumer in accordance with Chapter 1304 or Chapter 1306 and any sales agreement or contract between the provider and the seller, to require the seller to refund the full purchase price of the service contract or identity recovery service contract to the consumer.

Honorariums Offered to and Accepted by Public Servants—S.B. 1269

by Senator Wentworth—House Sponsor: Representative Branch

In 2009, TEC adopted Ethics Advisory Opinion No. 484. This opinion stated that expenditures accepted under the provisions of Section 36.07(b) (relating to a public servant accepting transportation and lodging expenses), Penal

Code, could be considered a political contribution under certain circumstances. The opinion was subsequently withdrawn by TEC. This bill:

Provides that transportation, lodging, and meals accepted under Section 36.07(b) are not political contributions.

Provides that the prohibitions set forth in Sections 36.08 (Gift to Public Servant by Person Subject to His Jurisdiction) and 36.09 (Offering Gift to Public Servant), Penal Code, do not apply to such transportation, lodging, and meals.

Alternative Dispute Resolution Systems—S.B. 1271

by Senator Duncan—House Sponsor: Representative Perry

The statutory scope of county alternative dispute resolution systems and what the systems currently do is unclear. This bill:

Defines an "alternative dispute resolution system" as an informal forum in which mediation, conciliation, or arbitration is used to resolve disputes among individuals, entities, and units of government, including those having an ongoing relationship such as relatives, neighbors, landlords and tenants, employees and employers, and merchants and consumers.

Authorizes the commissioners court of a county by order to establish an alternative dispute resolution system for the peaceable and expeditious resolution of disputes, rather than of citizen disputes.

Additions and Corrections in Enacted Codes—S.B. 1303

by Senator West—House Sponsor: Representative Tracy O. King

The Texas Legislative Council is required by law to make various nonsubstantive amendments to enacted codes, conform the codes to acts of previous legislatures, correct references and terminology, properly organize and number the law, and codify other law that properly belongs in the codes. This bill:

Continues the Texas Legislative Council's statutory revision program by making nonsubstantive additions and corrections in enacted codes.

Correction Instruments in the Conveyance of Real Property—S.B. 1496

by Senator Uresti—House Sponsor: Representative Rodney Anderson

A long-standing practice in Texas is for a correction instrument to be filed in order to correct nonsubstantive errors in deeds of record. A Texas court recently considered a case involving foreclosure and the misuse of a correction deed and, in its opinion, seemed to suggest that certain correction instruments may be void, particularly a correction instrument pertaining to additional property. That court decision has created an uncertainty within the real estate industry as to what can be corrected and as to the validity of certain correction documents. This bill:

Clarifies the scope and validity of correction instruments in the conveyance of real property.

Liability of a Volunteer Health Care Practitioner—S.B. 1545

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

Current law grants protection from liability to volunteer health care practitioners who provide medical screenings or physical examinations "for the purpose of certifying the patient's eligibility" to participate in school sport programs. This bill:

Provides that a health care practitioner who, without compensation or expectation of compensation, 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 is immune from civil liability for any act or omission resulting in the death of or injury to the patient.

Reporting Requirements for State Agencies and School Districts—S.B. 1618

by Senators Seliger and Nelson—House Sponsor: Representative Craddick

State agencies are required by law to report to the legislature on a variety of subjects and issues. Requiring state agencies to print copies of each report and deliver them to each legislative office is arcane and wasteful of state resources. This bill:

Requires a school district, notwithstanding any other law, to submit only in electronic format all reports required to be submitted to the Texas Education Agency (TEA) under this code.

Requires TEA to prescribe the electronic format to be used by a school district submitting a report to TEA.

Requires that certain agency reports submitted to SAC be submitted in electronic format only.

Requires SAC and its staff to consider certain criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees, including the extent to which the purpose and effectiveness of reporting requirements imposed on the agency justifies the continuation of the requirement.

Requires SAC, in its report on a state agency, to make certain recommendations, including recommendations on the continuation or abolition of each reporting requirement imposed on the agency by law.

Requires a state agency to make each report required by law available to members of the legislature only in an electronic format determined by the Texas Legislative Council.

Requires a state agency, at the time a report required by law is ready for distribution outside the state agency, to send notice to each member of the legislature that the report is available.

Requires the agency to send the notice electronically, rather than by mail or, if it is acceptable to the member.

Requires that the notice briefly describe the subject matter of the report and state the manner in which the member may obtain the report electronically.

Conduct Constituting Barratry—S.B. 1716*by Senator Duncan—House Sponsor: Representative Fletcher*

Barratry is commonly known as vexatious incitement to litigation, typically by soliciting potential legal clients. Many refer to the practice as "case running." Under Section 38.12 (Barratry and Solicitation of Professional Employment), Chapter 38 (Obstructing Governmental Operation), Penal Code, "barratry" is generally defined as the illegal solicitation of professional employment. The Texas Disciplinary Rules of Professional Conduct (TDRPC) of the State Bar of Texas (state bar) prohibit these solicitations as well. This bill:

Provides that any contract for legal services is voidable by the client if it is procured as a result of conduct violating the laws of this state or the TDRPC of the state bar regarding barratry by attorneys or other persons.

Allows an attorney who was paid or owed fees or expenses under a contract that is voided to recover fees and expenses 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.

Requires an attorney, in order to recover fees or expenses, to have reported the misconduct as required by the TDRPC of the state bar, unless another person has already reported the misconduct or the attorney reasonably believed that reporting the misconduct would substantially prejudice the client's interests.

Authorizes a client to bring an action to void a contract for legal services that was procured as a result of conduct violating the laws of this state or the TDRPC of the state bar regarding barratry by attorneys or other persons.

Provides that a client who prevails in an action recover from any person who committed barratry all fees and expenses paid to that person under the contract; the balance of any fees and expenses paid to any other person under the contract, after deducting fees and expenses awarded based on a quantum meruit theory; actual damages caused by the prohibited conduct; and reasonable and necessary attorney's fees.

Authorizes a person who was solicited by conduct violating the laws of this state or the TDRPC of the state bar regarding barratry by attorneys or other persons, but who did not enter into a contract as a result of that conduct, to file a civil action against any person who committed barratry.

Provides that a person who prevails in an action shall recover from each person who engaged in barratry a penalty in the amount of \$10,000; actual damages caused by the prohibited conduct; and reasonable and necessary attorney's fees.

Requires that this legislation be liberally construed and applied to promote its underlying purposes, which are to protect those in need of legal services against unethical, unlawful solicitation and to provide efficient and economical procedures to secure that protection.

Establishes that the provisions are not exclusive, but are in addition to any other procedures or remedies provided by any other law, except that a person may not recover damages and penalties under both this law and another law for the same act or practice.

Exemption of Retirement Accounts From Creditor Claims—S.B. 1810*by Senator Carona—House Sponsor: Representative Truitt*

For many years, Texas has protected the individual retirement account (IRA) assets of retirees and their dependents from creditor claims. The state has exempted IRAs from creditor claims since 1987 and it has been generally

understood that the exemption included inherited IRAs, which are IRAs that pass to a beneficiary other than a spouse at the death of the IRA owner. In 2007, a bankruptcy court in Houston held that the Texas statute exempting IRAs from creditors did not apply to inherited IRAs. This bill:

Provides that, in addition to the exemption prescribed by Section 42.001 (Personal Property Exemption), Property Code, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, annuity, deferred compensation, profit-sharing, or similar plan, including a retirement plan for self-employed individuals, or a simplified employee pension plan, an IRA or individual retirement annuity, including an inherited IRA or individual retirement annuity, or a health savings account, and under any annuity or similar contract purchased with assets distributed from that type of plan or account, is exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under the Internal Revenue Code of 1986, including a government plan or church plan.

Provides that, for purposes of this bill, the interest of a person in a plan, annuity, account, or contract acquired by reason of the death of another person, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt 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.

Provides that amounts distributed from a plan, annuity, account, or contract entitled to an exemption are not subject to seizure for a creditor's claim for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution.

Provides that a participant or beneficiary of a plan, annuity, account, or contract entitled to an exemption, other than an IRA or individual retirement annuity is not prohibited from granting a valid and enforceable security interest in the participant's or beneficiary's right to the assets held in or to receive payments under the exempt plan, annuity, account, or contract to secure a loan to the participant or beneficiary from the exempt plan, annuity, account, or contract, and the right to the assets held in or to receive payments from the plan, annuity, account, or contract is subject to attachment, execution, and seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

African American Texans Memorial Monument—S.B. 1928

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

An African American Texans monument will honor historical contributions of African Americans to the State of Texas. This bill:

Requires 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.

Veterinarian Disclosure of Confidential Information—H.B. 413

by Representative Aycock—Senate Sponsor: Senator Hegar

Current law relating to disclosure of confidential information by a veterinarian fails to account for circumstances when it may be necessary for a veterinarian to disclose certain information. When clients fail to pay a veterinarian for services performed and the veterinarian is unable to collect the debt, it may become necessary for the veterinarian to send the debt to a collections agency. It may also be necessary for a veterinarian to provide a client's information to a public health authority, veterinarian, or physician when information on an animal's vaccination status is needed, or when another public health concern requires it. This bill:

Provides that a veterinarian does not commit a violation of a client's confidentiality when turning over information to prove that services were performed for the purposes of collecting a debt.

Provides that a veterinarian does not commit a violation of a client's confidentiality when providing information to a public health authority, veterinarian, or physician who requests the identity of a client to obtain information pertaining to the vaccination status of a client's animal, other treatments involving a life-threatening situation, or public health purpose.

Requires a public health authority who receives such information to maintain its confidentiality and prohibits the authority from using the information for a purpose that is not directly related to public health and safety.

Confidentiality of Information in the Office of the Attorney General—H.B. 1046

by Representative Fletcher—Senate Sponsor: Senator Huffman

Section 552.021 (Availability of Public Information), Subtitle A (Open Government), Government Code, provides that public information is available to the public at a minimum during the normal business hours of the governmental body. This bill:

Provides that information that relates to the home address, home telephone number, or Social Security number of a current or former employee of OAG who is or was assigned to a division of OAG which involves law enforcement is not public information, regardless of whether the current or former employee complies with certain provisions in the Government Code.

Makes conforming changes in the Government Code and the Tax Code.

Notice by Governmental Entity Regarding Certain Geospatial Data Products—H.B. 1147

by Representative Wayne Smith—Senate Sponsor: Senator Wentworth

Some governmental entities create or host documents, computer files, or Internet websites that contain geospatial data, maps, or information about a service involving geospatial data or maps. This geospatial data product may represent property boundaries that are not produced using information from an on-the-ground survey conducted by a registered professional land surveyor, and the information could be misinterpreted or assumed to be suitable for legal, engineering, or surveying purposes. This bill:

Defines "geospatial data product," "governmental entity," and "registered professional land surveyor."

Requires a governmental entity to include a notice on each geospatial data product that is created or hosted by the governmental entity, appears to represent property boundaries, and was not produced using information from an on-

the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

Sets forth the language of the notice.

Exempts a governmental entity from the notice requirement on a geospatial data product that does not contain a legal description, a property boundary monument, or the distance and direction of a property line; is prepared only for use as evidence in a legal proceeding; or is filed with the clerk of any court or the county clerk.

Allowing County Commissioners Court to Deliberate in a Closed Meeting—H.B. 1500

by Representative White—Senate Sponsor: Senator Nichols

Current law authorizes the commissioners court of a county with a population of 400,000 or more to conduct a closed meeting to deliberate on business and financial issues relating to a contract being negotiated under certain conditions. This bill:

Removes the population bracket, authorizing a commissioners court in any county, regardless of population, to conduct such a closed meeting as long as the required conditions are met.

Information Filed With the Texas Ethics Commission—H.B. 1616 [Vetoed]

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

Currently, officeholders are not required to disclose reimbursements and other amounts received during a reporting period on their campaign finance reports and lobbyists are not required to disclose the name of officeholders who use political funds to compensate or reimburse them. This bill:

Requires that each political report filed under Chapter 254 (Political Reporting), Election Code, include the amount of political expenditures that in the aggregate exceed \$100, rather than \$50; the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100, rather than \$50, or less; any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution received during the reporting period and the amount of which exceed \$100; any proceeds of the sale of an asset purchased with a political contribution received during the reporting period and the amount of which exceeds \$100; any investment purchased with a political contribution received during the reporting period and the amount of which exceeds \$100; any other gain from a political contribution received during the reporting period and the amount of which exceeds \$100; and the full name and address of each person from whom an amount is received, the date the amount is received, and the purpose for which the amount is received.

Provides that a person who files a semiannual report that is amended before the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if the amendment is made before any complaint is filed with regard to the subject of the amendment and the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Allows a person who files a report to correct the report if the correction is made not later than the 14th business day after the person receives written notice of a complaint filed with the Texas Ethics Commission (TEC) with regard to the report and the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Provides that a person does not commit an offense if the person fails to include in the report required information if the information was required to be included in a semiannual report and the person amended the report before the eighth day after the original report was filed.

Establishes that it is not a valid basis of a complaint to allege that a report contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

Requires TEC, at any stage of a proceeding, to dismiss a complaint to the extent the complaint alleges that a report contains the improper name or address of a person from whom a political contribution was received if the name and address in the report is the same as the name and address that appears on the check for the political contribution.

Requires TEC to dismiss the complaint if, not later than the 14th business day after a person receives written notice of a complaint alleging that the person failed to properly file a report, the person corrects the report that was originally made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Requires that the written notice to the complainant and respondent state the procedure by which the respondent may designate an agent with whom TEC staff may discuss the complaint if the respondent is a candidate or officeholder and, if applicable, state that the respondent has 14 business days to correct the report.

Provides that if the respondent is a candidate or an officeholder, the respondent to a complaint may designate in writing an agent with whom TEC staff may communicate regarding the complaint.

Prohibits TEC 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.

Requires that financial statements be filed with the county clerk of the county in which the officer, justice, or candidate reside, comply with the provisions regarding open government and ethics in the Government Code, and with any order of the commissioners court of the county requiring additional disclosures.

Type of Newspaper Required for Publication of Notice in Certain Counties—H.B. 1812

by Representative Phillips—Senate Sponsor: Senator Seliger

Public notices in newspapers are designed primarily to keep residents informed about the activities of their government. Texas law sets out certain requirements a newspaper must meet to carry public notices placed by governmental entities but does not address certain situations in which there is no newspaper meeting those requirements being published in a particular county. This bill:

Authorizes a governmental entity publishing notice in a county that does not have a newspaper that meets the necessary legal requirements to choose a weekly newspaper that is most likely to reach the greatest number of citizens within that county.

Records Access and Police Officer Photographs—H.B. 2006

by Representative Bonnen—Senate Sponsor: Senator Huffman

Current law provides that photographs of police officers must be released unless good cause, such as endangerment to the officer, can be shown. The Local Government Code requires the human resources director for a fire or police department to order that the records of a disciplinary action that was taken against a fire fighter or police officer be

expunged from each file maintained on the fire fighter or police officer if the disciplinary action was entirely overturned on appeal by the Fire Fighters' and Police Officers' Civil Service Commission. This bill:

Prohibits a department, commission, or municipality from releasing a photograph that depicts a police officer unless the officer has been charged with an offense by indictment or by information; the officer is a party in a civil service hearing or case before a hearing examiner or in arbitration; the photograph is introduced as evidence in a judicial proceeding; or the officer gives written consent to the release of the photograph.

Provides that records of an internal affairs division or other similar internal investigative division do not have to be expunged.

Open Meetings Notice Requirements for Municipalities and Counties—H.B. 2313

by Representative Coleman—Senate Sponsor: Senator Wentworth

Under current law, a municipality's governing body may receive staff reports during a meeting of the body, provided that no action is taken and there is no discussion of possible action on the information contained in the report. This bill:

Extends the same privilege to county governments.

Defines "electronic bulletin board."

Permits a municipal governmental body to post required meeting notices on an electronic bulletin board at a place convenient to the public in the city hall.

Confidentiality and Protective Orders for Victims of Human Trafficking—H.B. 2329

by Representative Zedler—Senate Sponsor: Senator Van de Putte

Legislation is required to provide for the availability of certain protective orders for a victim of trafficking, to specify certain confidentiality requirements related to identifying information regarding victims of trafficking, and to allow such victims to receive a pseudonym. This bill:

Authorizes a person who is the victim of an offense of human trafficking, a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of human trafficking, or a prosecuting attorney acting on behalf of the person to file an application for a protective order without regard to the relationship between the applicant and the alleged offender.

Authorizes the court, if the court finds that there is clear and present danger that the alleged offender will traffic the applicant or that the victim will otherwise suffer harm, without further notice to the alleged offender and without a hearing, to enter a temporary *ex parte* order for the protection of the applicant or any other member of the applicant's family or household.

Requires OAG to develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim.

Authorizes a victim to choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.

Prohibits a victim who establishes a pseudonym following proper procedure from being required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.

Provides that a public servant with access to the name, address, or telephone number of a victim 18 years of age or older who has chosen a pseudonym commits an offense if the public servant knowingly discloses the name, address, or telephone number of the victim to any person other than the defendant, the defendant's attorney, or the person specified in an order of a court of competent jurisdiction.

Defines "victims of trafficking shelter center" as a program that is operated by a public or private nonprofit organization and provides comprehensive residential and nonresidential services to victims of trafficking of persons.

Provides that information in appraisal records is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if the information identifies the address of a family violence shelter center, a sexual assault program, or a victims of trafficking shelter center.

Confidentiality of Information Held by a Public Retirement System—H.B. 2460

by Representative Truitt—Senate Sponsor: Senator Wentworth

The enabling statutes for many public retirement systems contain restrictive provisions preserving the confidentiality of information held by their governing boards. This bill:

Defines "governing body of a public retirement system" and "public retirement system."

Provides that the governing body of a public retirement system is subject to Chapter 552 (Public Information), Government Code, in the same manner as a governmental body.

Provides that records of individual members, beneficiaries, participants, and certain other persons eligible for benefits (eligible person) from a retirement plan or program administered by the retirement system that are in the custody of the system, an administering firm, a carrier, or another governmental agency are confidential and not subject to public disclosure.

Provides that the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general because the records are exempt from the provisions of Chapter 552, except as otherwise provided.

Authorizes the release of records to an eligible person or to an authorized attorney, family member, or representative acting on behalf of such person; 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.

Permits a record released or received by the retirement system to be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system.

Provides that an unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information is not a violation by the retirement system of any law; the records of an eligible person remain confidential after release to that person; and the records may become part of the public record of an administrative or judicial proceeding related to a contested case, and the eligible person waives the confidentiality of the records unless the records are closed by a protective order.

Authorizes the retirement to require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs or as otherwise required by state or federal law.

Grants the retirement system sole discretion in determining whether a record is subject to this Act.

Provides that to the extent of a conflict between this Act and another law with respect to the confidential information held by a public retirement system or other entity concerning an eligible person, the provision that provides the greater substantive and procedural protection for privacy will prevail.

Access to Certain Records Regarding an Employment Discrimination Claim—H.B. 2463

by Representative Reynolds—Senate Sponsor: Senator Ellis

The Texas Workforce Commission (TWC), under agreement with the United States Equal Employment Opportunity Commission (EEOC), investigates complaints of employment discrimination. Current state law requires TWC to release the full files on an investigation to parties to the complaint, but federal rules require that certain identifying and sensitive information be redacted. This bill:

Provides that the following information is not considered public information for the purposes of Chapter 552 (Public Information), Government Code, and may not be disclosed to a party to an employment discrimination complaint:

- identifying information of persons other than the parties and witnesses to a complaint;
- identifying information about confidential witnesses, including any confidential statements;
- 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 is not relevant to issues raised in the complaint, including information that identifies injuries or medical conditions that are not obviously apparent or visible;
- 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;
- nonsensitive medical information that is relevant to the complaint if the disclosure would result in an invasion of personal privacy, unless the information is generally known or has been previously reported to the public;
- identifying information about other respondents or employers not a party to the complaint;
- information relating to settlement offers or conciliation agreements received from one party that was not conveyed to the other 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.

Defines "identifying information."

Confidentiality of Identifying Information of Certain Students—H.B. 2538

by Representative Vo—Senate Sponsor: Senator Jackson

Currently, under the federal Family Educational Rights and Privacy Act, student records at an educational or training institution are confidential only if the institution receives United States Department of Education funding. This bill:

Defines a "student" to mean any prospective, current, or former student of a career school or college or other entity from which the Texas Workforce Commission receives or reviews information through its administration or enforcement of Chapter 132 (Career Schools and Colleges), Education Code.

Defines "student information."

Provides that such information is not public information for purposes of Chapter 552 (Public Information), Government Code.

Makes it a Class A misdemeanor to disclose or receive such information in violation of the law.

Obtaining Criminal History Record Information by the Texas Facilities Commission—H.B. 2632

by Representative Driver—Senate Sponsor: Senator Wentworth

According to a recent Texas state agency survey, a large number of state agencies are authorized by over 100 separate statutes to obtain confidential criminal history record information from the Department of Public Safety of the State of Texas (DPS) for the purposes of conducting criminal history background checks on job applicants, employees, licensees, contractors, and others. However, the Texas Facilities Commission (TFC) does not currently have this authorization. As the custodian of certain state properties, TFC provides access control and security surveillance systems for buildings on TFC-managed inventory and for the occupying tenant agencies of those properties. Additionally, in the course of the assigned work or contract activities, various employees and contracts of TFC have daily access to areas throughout the offices of all tenant agencies, including highly sensitive or restricted areas. Due to heightened security concerns and increased access control measures throughout the capitol complex, additional statutory authorization is needed for TFC to obtain criminal history record information to ensure that appropriate security standards and protocols are maintained in the assignment of individuals to work activities. This bill:

Entitles TFC to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an employee or an applicant for employment with TFC; is a consultant, intern, or volunteer for TFC or an applicant to serve as a consultant, intern, or volunteer; proposes to enter into a contract with or has a contract with TFC to perform services for, or supply goods to, TFC; or is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission.

Prohibits the criminal history record information obtained by TFC from being released or disclosed to any person except on court order, or with the consent of the person who is the subject of the criminal history record information.

Electronic Submission of Certain Documents to OAG—H.B. 2866

by Representative Harper-Brown—Senate Sponsor: Senator Ellis

H.B. 2866 was filed at the request of OAG. Currently, OAG does not have the authority to charge a fee for the electronic submission of documents to OAG even though there are considerable costs to OAG for processing submissions. Additionally, OAG currently engages in certain types of correspondence that incur substantial costs for both OAG and its correspondents due to the volume of paper involved. For example, OAG currently receives about 19,000 open records ruling requests from political subdivisions, many of which come with lengthy attachments. An electronic filing system would reduce paper, mailing, and copying costs for OAG and its correspondents as well as speeding up the process. This bill:

Authorizes OAG to charge and collect a nonrefundable administrative convenience fee for the electronic submission of a document to the attorney general.

Provides that the fee is in addition to any other fee the attorney general may assess.

Authorizes OAG to adopt rules necessary to administer the fee.

Provides that the fee expires September 1, 2015.

Provides that when there is a requirement for a request, notice, or other document to be submitted or otherwise given to OAG within a specified period, the requirement is met in a timely fashion if the document is submitted to OAG through the OAG's designated electronic filing system within that period.

Authorizes OAG to electronically transmit a notice, decision, or other document.

Provides that when there is a requirement for OAG to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the document is electronically transmitted by the attorney general within that period.

Exempting Hospital District Audit Working Papers from Disclosure—H.B. 2947

by Representative Coleman—Senate Sponsor: Senator Shapiro

Section 552.116 (Exception: Audit Working Papers), Government Code, provides that the audit working paper of an audit of the state auditor or the auditor of a state agency or certain other specified governmental bodies is excepted from disclosure under Chapter 552 (Public Information), Government Code. This bill:

Adds hospital districts to the list of governmental bodies set forth in Section 552.116.

Expands the definition of "audit" to include an audit authorized or required by the bylaws adopted by or other action of the governing board of a hospital district.

Confidentiality of Communications and Records of Sexual Assault—H.B. 2966

by Representative Naishtat—Senate Sponsor: Senator Zaffirini

An alleged victim of sexual assault is able to obtain a forensic medical examination regardless of whether the victim has reported the crime to a law enforcement agency. Although the evidence and accompanying documentation need not contain identifying information about the victim, DPS occasionally receives identifying information from the medical facilities that performed the forensic medical examinations. This bill:

Provides that identifying information regarding a person who receives a forensic medical examination is confidential.

Provides that "identifying information" includes information revealing the identity, personal history, or background of the person or information concerning the victimization of the person.

Applicability of Open Meetings Law to Certain Hospital Authority Boards—H.B. 2978

by Representative Hunter—Senate Sponsor: Senator Hegar

Section 551.085(a), Government Code, excludes the governing board of a municipal hospital, municipal hospital authority, or hospital district from being required to conduct an open meeting under certain circumstances relating to pricing or financial planning information or the provision of services or product lines. This bill:

Expands the current law to include the governing board of a county hospital or county hospital authority.

Confidentiality of Certain Home Address Information in Tax Appraisal Records—H.B. 3307

by Representative Munoz, Jr.—Senate Sponsor: Senator Hinojosa

Current law allows appraisal records to be kept confidential if they contain the address information of certain groups of individuals whose personal safety could be jeopardized if their home address became easily available as a public record. This bill:

Expands Section 25.025(a), Tax Code, which sets out the persons who are eligible for such confidentiality, to include current or former United States attorneys and assistant United States attorneys and their spouses and children.

Information Provided to the Office of Consumer Credit Commissioner—H.B. 3453

by Representative Anchia—Senate Sponsor: Senator Eltife

Current law provides for the confidentiality of information provided to the Office of Consumer Credit Commissioner (CCC) but it is unclear whether the confidentiality provisions extend to unlicensed persons subject to investigations. CCC is authorized to conduct examinations and investigations of property tax lenders. Such audits can uncover sensitive business and financial information that should remain confidential. Currently, the information yielded from an examination is deemed confidential and may not be disclosed outside of certain exceptions. CCC investigations also address sensitive information that warrants an equal amount of protection. CCC is also authorized to review the amount of a documentary fee relating to a motor vehicle retail installment contract, and sensitive financial information used to support the fee is included in that review. This bill:

Provides that, except as otherwise provided, certain information or material obtained or compiled by the consumer credit commissioner (commissioner) in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, registrant, applicant, or other person under Subtitle B (Savings and Loan Associations) or C (Savings Banks), Title 4 (Regulation of Interest, Loans, and Financed Transactions) or Chapter 394 (Debtor Assistance), Finance Code, is confidential and may not be disclosed by the commissioner or an officer or employee of CCC.

Authorizes the commissioner or the commissioner's representative to disclose the confidential information or material if the license holder, registrant, applicant, or other person consents to the release of the information or has published the information contained in the release.

Authorizes the commissioner, to ensure consistent 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 a department, agency, or instrumentality of this state, another state, or the United States if the commissioner considers the disclosure of the information to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public.

Provides that for an open-end account credit agreement that provides for credit card transactions on which a merchant discount is not imposed or received by the creditor or a retail charge agreement under Chapter 345 (Retail Installment Sales), Finance Code, without a merchant discount, the ceiling is 21 percent a year.

Authorizes a lender, at the time or after a loan is made, to offer to sell to the borrower and finance in a certain loan contract a charge for an automobile club membership.

Authorizes a lender, on a loan subject to this chapter, to assess and collect a fee that does not exceed the amount prescribed by Section 3.506 (Processing Fee by Holder of Payment Device), Business & Commerce Code, for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a loan.

Authorize a retail charge agreement to provide for the payment of a delinquency charge on each installment that is in default for a period that is longer than 21 days, an attorney's reasonable fee if the agreement is referred for collection to an attorney who is not a salaried employee of the holder, and court costs and disbursements.

Authorizes certain fees to be charged to or collected from a customer in connection with a revolving credit account, including a returned check fee as provided for a loan agreement under Chapter 342 (Consumer Loans) by Section 3.506, Business & Commerce Code.

Provides that except as provided by other sections of this bill, the following information and documents are confidential and not subject to disclosure:

- all information provided by a retail seller to the commissioner, including the maximum documentary fee a retail seller intends to charge, the written notice of an increased documentary fee, and any financial information submitted with the notice; and
- all correspondence between a retail seller and the commissioner or the commissioner's representative relating to the notice of an increased documentary fee and a review for reasonableness of the amount of the documentary fee to be charged.

Authorizes the commissioner to disclose information or documents that are confidential if the commissioner determines that release of the information or documents is required for an administrative hearing; the retail seller consents to the release of the information or documents; or the disclosure is required by a court order.

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 a holder that provides written proof, signed by the retail seller, that the retail seller has agreed to assign or transfer one or more retail installment contracts to the holder; or a prospective retail buyer that provides to the commissioner a buyer's order executed by the prospective buyer and the retail seller; a draft of a retail installment contract provided by the retail seller to the prospective buyer; or a written statement by the retail seller acknowledging that the person is a prospective buyer of a motor vehicle from the retail seller.

Authorizes the commissioner to assess an administrative penalty against a person who violates provisions relating to a sworn document sent by certified mail by the transferee under the Tax Code, regardless of whether the violation is knowing or wilful.

Disclosure of Information Regarding Charitable Organizations—H.B. 3573

by Representative Susan King et al.—Senate Sponsor: Senator Fraser

Charitable giving through philanthropic organizations supports citizens who are in need while reducing demand for services provided by the government. In order to encourage giving in the private sector, H.B. 3573 seeks to establish provisions relating to limiting the disclosure of certain information regarding certain charitable organizations, trusts, private foundations, and grant-making organizations. This bill:

Prohibits a governmental entity, unless the individual has given written consent to the disclosure, from requiring a charitable organization, private foundation trust, split interest trust, or private foundation to disclose the race, religion,

gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of an employee, officer, director, trustee, or member of the organization, trust, or foundation.

Prohibits a governmental entity, unless the individual has given written consent to the disclosure, from requiring a private foundation, private foundation trust, split interest trust, 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 a person who receives money or in-kind contributions from or contracts with the foundation, trust, or organization, or an employee, officer, director, trustee, member, or owner of an entity that receives money or in-kind contributions from or contracts with the foundation, trust, or organization.

Prohibits a governmental entity from:

- requiring that the governing board or officers of a charitable organization, private foundation trust, split interest trust, or private foundation include an individual of any particular race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration;
- prohibiting an individual from serving as a board member or officer of the organization, trust, or foundation based on the individual's familial relationship to another board member or officer of the organization, trust, or foundation, or a donor to the organization, trust, or foundation; 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.

Prohibits a governmental entity, except as a condition on the expenditure of particular funds imposed by the donor of the funds, from requiring a charitable organization, private foundation trust, split interest trust, or private foundation to distribute its funds to or contract with a person or entity based on the race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of the person or of an employee, officer, director, trustee, member, or owner of the entity, or the populations, locales, or communities served by the person or entity.

Does not limit the authority of the attorney general to investigate or enforce laws of this state in accordance with the attorney general's duty to protect the public interest in charity.

Extending the Exception to Disclosure Concerning Hospital District Employees—S.B. 470

by Senator Carona—House Sponsor: Representative Anchia

S.B. 1182, enacted by the 81st Legislature, Regular Session, 2009, allowed an employee of a hospital district to apply to withhold information that could compromise the public employee's safety from disclosure under Chapter 552 (Public Information), Government Code. S.B. 1182 provided that these provisions would be effective only through September 1, 2013. This bill:

Repeals Section 552.150(c), Government Code, which set the September 1, 2013, expiration date.

Redaction of Certain Personal Information—S.B. 602

by Senator Rodriguez—House Sponsor: Representative Marquez

Chapter 552, Government Code, is often referred to as the Public Information Act (PIA). Section 552.301 (Request for Attorney General Decision), Government Code, allows a governmental body to request a decision from the Texas attorney general regarding whether an information request falls within one of the exceptions under PIA. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a

reasonable time, but not later than the 10th business day after receiving the written request. Under Section 552.130 (Exception: Motor Vehicle Records), Government Code, a motor vehicle operator or driver's license or permit, motor vehicle title or registration are exempted from public information requests. Section 552.136 (Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers), Government Code, provides that credit card, debit card, charge card, or access device numbers are confidential. This information may appear in various forms in government documents. Section 552.263 (Bond for Payment of Costs or Cash Prepayment for Preparation of Copy of Public Information), Government Code, allows an officer for public information to require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information. If a requestor fails to make a deposit or post a bond before the 10th business day, the request is considered withdrawn. There is a question regarding the 10-day rule when the requestor subsequently modifies the request. This bill:

Exempts the personal information of an individual maintained in an institution of higher education's emergency notification system from disclosure under Chapter 552.

Defines "personal information."

Authorizes a governmental body to redact information regarding driver's licenses or government-issued identification documents, credit card, debit card, charge card, and access device numbers without the necessity of requesting a decision from the attorney general.

Authorizes the requestor, if a governmental body redacts or withholds information without requesting a decision from the attorney general, to seek a decision from the attorney general about the matter.

Requires the attorney general to:

- establish procedures and deadlines for receiving information necessary to decide the matter;
- render a written decision not later than the 45th business day after the date the attorney general received the request for a decision; and
- provide copies of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter.

Authorizes a requestor or governmental body to appeal the decision to a Travis County district court.

Requires a governmental body that redacts or withholds information to provide certain information, including a description of the information that was redacted or withheld and instructions regarding how the requestor may seek an attorney general decision regarding whether the information is excepted from disclosure.

Clarifies that the 10-day deadline starts again if a requestor modifies or narrows the request in response to a letter setting out the anticipated cost.

Provides that a public information request is presumed received three business days after the postmarked date of the mailing in the absence of other evidence of date of receipt.

Access to Criminal History Record Information—S.B. 682

by Senator Huffman—House Sponsor: Representative Elkins

Appraisal districts are authorized to have access to Department of Public Safety of the State of Texas (DPS) criminal history information on applicants for employment with the district. This bill:

Provides that an appraisal district is entitled to obtain from DPS criminal history record information that relates to a person who is an applicant for employment by the appraisal district or for appointment to the appraisal review board (ARB) for the appraisal district.

Allows the appraisal district, if the members of the ARB are appointed by the local administrative district judge, to provide criminal history record information to the local administrative district judge or to the ARB commissioners appointed by the local administrative district judge.

Relating to High-Value Data Sets of State Agencies Posted on the Internet—S.B. 701

by Senator Watson—House Sponsor: Representative Strama et al.

The state seeks to promote increased government transparency on-line. This bill:

Defines "high-value data set" and "state agency."

Provides that a state agency must post each high-value data set created or maintained by the agency on a generally accessible Internet website maintained by or for the agency, if the agency can do so at no additional cost to the state; enters into a contract advantageous to the state under which the contractor will post the data set online at no additional cost; or accepts a grant or gift specifically for the purpose of posting the data.

Requires such data to be raw data accessible in an open standard format that allows the public to search, extract, organize, and analyze the information.

Requires that the web page on which such data is posted use the agency's Internet website home page address and include the uniform resource locator suffix "data"; and have a conspicuously displayed link on either the agency's Internet website home page or another intuitive location accessible from the agency's Internet website home page.

Authorizes a state agency to accept a gift or grant for the purpose of posting one or more of the agency's high-value data sets on an Internet website.

Exchange of Confidential Information About Juveniles by Governmental Entities—S.B. 1106

by Senators Harris and Huffman—House Sponsor: Representative Madden

State laws allow some sharing of information relating to juveniles between the governmental entities that serve them, but these state laws are more restrictive than federal laws, such as the Health Information Privacy and Accountability Act and the Family Educational Rights Privacy Act. Failing to exchange such information can result in duplication of services and may prevent the effective provision of services. This bill:

Defines "educational records," "juvenile service provider," and "student."

Requires an independent school district or a charter school to comply with the request of a juvenile service provider for confidential information contained in a student's educational records for certain juveniles taken into custody or referred to juvenile court, regardless of whether the information is confidential under other state law.

Prohibits an independent school district or charter school that discloses confidential information to a juvenile service provider from destroying a record of the disclosed information before the seventh anniversary of the date the information is disclosed.

Requires a juvenile service provider that receives confidential information to certify in writing that the juvenile service provider will use the confidential information only to verify the identity of a student involved in the juvenile justice system and to provide delinquency prevention or treatment services to the student.

Defines "multi-system youth" and "personal health information."

Requires a juvenile service provider, on request, to disclose to another such provider a multi-system youth's personal health information or a history of governmental services provided to the multi-system youth.

Permits a juvenile service provider to disclose personally identifiable information under this section only for the purposes of identifying a multi-system youth, coordinating and monitoring care for multi-system youth, and improving the quality of juvenile services provided to a multi-system youth.

Provides that to the extent that these provisions conflict with another law of this state with respect to confidential information held by a governmental agency, these provisions control.

Authorizes a juvenile service provider to establish an internal protocol for sharing educational and other information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information.

Protects the confidentiality of the information being shared.

Authorizes a governmental agency to disclose to a third party for research purposes information that is not personally identifiable as provided by the governmental agency's protocol.

Requires a juvenile service provider that requests information to pay a fee to the disclosing juvenile service provider in the same amounts charged for the provision of public information under Chapter 552 (Public Information), Government Code, unless:

- there is a memorandum of understanding between providers the prohibiting or waving the payment of a fee or providing an alternate method of assessing a fee;
- the disclosing provider waives the fee; or
- disclosure of the information is required by law other than this Act.

Authorizes information contained in the juvenile justice information system to be disseminated to a county, justice, or municipal court exercising jurisdiction over a juvenile.

Authorizes certain files, reports, records, communications, and working papers used or developed in providing services to be disseminated to local agencies that provide services to children and families.

Provides that a videotaped interview made at a child advocacy center is subject to production under certain provisions of the Code of Criminal Procedure and the Texas Rules of Evidence.

Requires a court to deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce such videotape, provided that the prosecuting attorney makes the videotape reasonably available to the defendant in the same manner as property or material may be made available to defendants, attorneys, and expert witnesses under the Code of Criminal Procedure.

Exception From Required Disclosure of Certain Appraisal District Records—S.B. 1130

by Senator Hegar—House Sponsor: Representative Kleinschmidt

H.B. 2188, 80th Legislature, Regular Session, 2007, specified that real property sales prices, descriptions, characteristics, and other related information were protected from disclosure under the state's public information laws. However, this created a significant problem for rural homeowners considering protesting their appraised homestead value because they were prohibited from accessing comparable sales information before filing a protest. H.B. 2941, 81st Legislature, Regular Session, 2009, provided that this nondisclosure provision applied only to counties with populations of more than 20,000. This bill:

Raises the threshold population for the nondisclosure provision to counties with populations of more than of 50,000.

Alternative Address for a Peace Officer When Obtaining a Driver's License—S.B. 1292

by Senator Hegar—House Sponsor: Representative Fletcher et al.

Under current law, a law enforcement officer must provide DPS with his or her home address when applying for a driver's license. This requirement can be problematic if someone wishing to do harm to the officer, the officer's home, or the officer's family requests to see an officer's license. This bill:

Requires 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.

Requires a peace officer to apply to DPS and provide sufficient evidence acceptable to DPS to establish the applicant's status as a peace officer to be issued a driver's license.

Requires the license holder, on issuance of the license, to surrender any other driver's license issued to the holder by DPS.

Requires the license holder, if the holder of a driver's license that includes an alternative address moves to a new residence or if the name of the person is changed by marriage or otherwise, not later than the 30th day after the date of the address or name change, to notify DPS and provide DPS with the number of the person's driver's license and, as applicable, the person's former and new addresses, or former and new names.

Requires the license holder, if the holder of a driver's license that includes an alternative address ceases to be a peace officer, not later than the 30th day after the date of the status change, to apply to DPS for issuance of a duplicate license.

Requires that the duplicate license include the person's actual current residence address.

Confidentiality of Information Obtained by a Compliance Office—S.B. 1327

by Senator Watson—House Sponsor: Representative Donna Howard

H.B. 4189, enacted by the 81st Legislature, Regular Session, 2009, encourages employees to make appropriate reports of theft, fraud, and ethics violations and participate in compliance investigations, and permits institutions of higher education to provide a means, such as a compliance hotline, for employees to have private access to the compliance office. In addition, H.B. 4189 makes confidential the identities of individuals who report compliance issues, ask compliance questions, or participate in a compliance investigation. The individual may consent to the release of the individual's identity.

Current law does not apply to the same information in the hands of a systemwide compliance office reviewing institutional compliance processes. The law permits the disclosure of the confidential information to a law enforcement agency or prosecutor, but does not permit the sharing of confidential information with governmental agencies such as the Texas Commission on Human Rights that may be charged with investigating the same matter that is the subject of the compliance report, or to permit the sharing of the confidential information within the institution with officers or employees responsible for conducting or reviewing the compliance investigation. This bill:

Provides that such information is exempted from disclosure if it is collected or produced by a systemwide compliance officer for the purpose of reviewing compliance programs at a component institution of higher education of a university system.

Permits such information to be made available, on request made in compliance with applicable law, to:

- governmental agencies responsible for investigating the matter that is the subject of a compliance investigation; and
- 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.

Provides that such disclosure does not change the confidential nature of the information.

Cancer Prevention and Research Institute of Texas Grants—S.B. 1421

by Senator Nelson—House Sponsors: Representatives Schwertner and Sarah Davis

Currently, the state may collect royalties, income, and other benefits realized as a result of projects undertaken with grant money awarded by the Cancer Prevention and Research Institute of Texas (CPRIT). However, interest and proceeds from securities and equity ownership are not explicitly allowed to be accrued by the state. This bill:

Allows the state to collect interest from securities and equity ownership that are realized as a result of a CPRIT grant project.

Protects certain proprietary information contained in grant applications by excluding it from disclosure under Chapter 552 (Public Information), Government Code.

Public Meetings and Information Disclosure Exemptions for Certain Utilities—S.B. 1613

by Senator Ogden—House Sponsor: Representative Brown

Chapter 552 (Public Information), Government Code, authorizes the public to seek the disclosure of information held by public entities subject to disclosure under that chapter. Chapter 552 includes a number of specific statutory exceptions to required public disclosure. A public entity seeking to keep requested information from public disclosure must seek a ruling on the relevant information from the Office of the Attorney General (OAG). Section 552.133 (Exception: Public Power Utility Competitive Matters), Government Code, provides a specific exception from required disclosure of public information for information regarding competitive matters.

Under current law, each utility's governing body has the authority to determine what information may be withheld by its utility. The law allows OAG to find that the information is outside the scope of the exception if OAG determines that the governing body failed to act in good faith in determining that the information concerned a competitive matter or the information sought was not reasonably related to a competitive matter. This bill:

Strikes the provisions authorizing a utility's governing body to determine whether a matter is competitive; and limiting the OAG's determination of whether certain information is outside the scope of the exception.

Defines "competitive matter."

Specifically exempts certain information from that definition.

Exception of Information From Disclosure Under Public Information Law—S.B. 1638

by Senator Davis—House Sponsor: Representative Geren

Currently, Sections 552.117 (Exception: Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information), 552.1175 (Confidentiality of Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information of Peace Officers, County Jailers, Security Officers, and Employees of the Texas Department of Criminal Justice or a Prosecutor's Office), and 552.024 (Electing to Disclose Address and Telephone Number), Government Code, allow a government official or employee to elect to exempt family member information from public disclosure. However, this provision applies only to individuals within the legal definition of family by consanguinity or affinity. If an individual lists a friend as his or her emergency contact in case of a medical emergency, these statutes do not allow the friend's name, address, and telephone number to be excepted from release.

Section 552.130 (Exception: Motor Vehicle Records), Government Code, exempts Texas-issued driver's license, motor vehicle title or registration, or personal identification document information from public disclosure. If a person from out of the state applies for employment with or is hired by a local or state government and the person provides a driver's license, vehicle registration, or a personal identification document that was not issued by Texas, that personal information is subject to disclosure.

Section 552.139 (Exception: Government Information Related to Security or Infrastructure Issues for Computers), Government Code, exempts computer network security information from public disclosure. However, the section does not exempt a copy of the government employee's identification badge, which contains information such as the employee's photograph, identification number, and job title. This bill:

Authorizes a government official or employee to choose whether to permit public access to his or her emergency contact information.

Expands the current exemption under Section 552.130 to include such documents issued by another state or country.

Expands the current exemption under Section 552.139 to include a photocopy or other copy of an identification badge.

Municipal and County Budgets on the Internet—S.B. 1692

by Senators Lucio and Birdwell—House Sponsor: Representative Alvarado

Under the Local Government Code, municipalities and certain counties must post their budgets on the Internet if they maintain an Internet site. This bill:

Requires a county covered under Chapter 111, Subchapter C (Alternate Method of Budget Preparation in Counties With Population of More than 125,000), Local Government Code, to post a copy of its budget if the county maintains an Internet site.

Requires the comptroller of public accounts to have on its Internet links to the website of each county and municipal that provides budget information for that entity.

Access to Certain Archaic Information—S.B. 1907

by Senator Wentworth—House Sponsor: Representative Geren

Under current law, most local government records considered confidential under Chapter 552 (Public Information), Government Code, are open to public inspection 75 years after they were originally created or received. Birth records and certain medical records are subject to disclosure only after 100 years. This bill:

Establishes that unless otherwise confidential by law, information excepted from disclosure under Chapter 552 is deemed public information and becomes subject to disclosure 75 years after it was originally created or received by the governmental body.

Provides that this Act does not limit the authority of a governmental body to establish retention periods for records under applicable law.

Office of Injured Employee Counsel—H.B. 1774*by Representative Larry Taylor—Senate Sponsor: Senator Huffman*

The Office of Injured Employee Counsel (OIEC) was established by the 79th Legislature, Regular Session, 2005, as a part of an overhaul of the workers' compensation system. It is administratively attached to, but independent of, the Texas Department of Insurance (TDI). The office assists unrepresented injured employees through TDI's Division of Workers' Compensation (DWC) dispute resolution process, educates injured employees regarding the Texas workers' compensation system, and advocates on behalf of injured employees as a class during rulemaking and judicial proceedings.

The OIEC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. As a result of its review of OIEC, SAC recommended continuation of the agency for six years to coincide with the next SAC review of the division, and statutory modifications that are contained in this legislation. This bill:

Continues OIEC for six years, to coincide with the next SAC review of the division.

Limits OIEC's authority to access claim files for injured employees OIEC is not directly assisting.

Adds standard SAC language requiring OIEC to maintain complaint information and to encourage the use of its alternative dispute resolution process.

Authorizes additional time for OIEC to complete its legislative report.

Clarifies that OIEC has access to individual claim information only when assisting an injured employee.

Authorizes OIEC to receive grants for funding its programs and provides OIEC an additional month in preparing its legislative from December 1 of each even-numbered year to January 1 of each odd-numbered year.

Continuation of State Soil and Water Conservation Board—H.B. 1808*by Representative Cook—Senate Sponsor: Senator Nichols*

The State Soil and Water Conservation Board (SWCB) works directly with owners and operators of agricultural land to develop and implement conservation plans involving land treatment measures for erosion control, water quantity, and water quality purposes. To achieve its mission, SWCB provides technical assistance to 216 local soil and water conservation districts; serves as the lead state agency for the prevention, management, and abatement of agricultural and forestry-related nonpoint source pollution; and administers grant programs for the maintenance and repair of flood control dams, water supply enhancement, development of water quality management plans, and management and abatement of agricultural nonpoint source pollution.

SWCB is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC recommended continuation of SWCB, but found that it lacks processes and systems to ensure that its programs are effective and accountable to the state.

SWCB is governed by Chapters 201 (Soil and Water Conservation) and 203 (Brush Control), Agriculture Code. This bill:

Requires SWCB to establish specific program goals and statewide grant practices, and to measure impacts for state-funded programs.

Changes the name of the Brush Control program to the Water Supply Enhancement program.

Requires SWCB to develop a system to rank and prioritize water supply enhancement projects based on water conservation need and water yield.

Specifies criteria for project prioritization, including projected water yield through a model in a feasibility study.

Clarifies the terminology in statute for what is a watershed project, a sub-basin or area within a watershed project, and a cost-share contract within areas of a watershed; specifies criteria for project prioritization.

Requires SWCB to conduct follow-up brush control inspections in order to determine land owners have maintained their land once brush has been removed.

Continues SWCB for 12 years but requires a special purpose review of the implementation of Sunset Advisory Commission recommendations as part of the 2015 Sunset review cycle.

Texas State Affordable Housing Corporation—H.B. 1818

by Representative Harper-Brown—Senate Sponsor: Senator Hinojosa

Created in 1995, the Texas State Affordable Housing Corporation (TSAHC) is a self-sustaining nonprofit corporation that helps Texans obtain affordable housing. To achieve its mission, TSAHC issues bonds to help teachers, firefighters, police officers, and low-income families purchase homes; provides loans to affordable housing developers; and seeks private funds to help support affordable housing.

TSAHC self-funds its operations and receives no state-appropriated funding. In fiscal year 2010, TSAHC spent \$4.8 million, with \$1.9 million of this amount paying for its operations. A five-member, governor-appointed board oversees TSAHC, which employs 14 people in Austin.

TSAHC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. The Sunset Advisory Commission (SAC) recommends continuing TSAHC for 12 years, as it is making progress on maximizing its potential as a nonprofit to solicit funds, award grants, and leverage funding to support housing initiatives. This bill:

Requires that one member of the TSAHC board represent the interests of individuals and families served by its single-family mortgage loan programs and one member represent nonprofit housing organizations.

Provides that the presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 150 or fewer is not required to appoint a tenant to the position of commissioner if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

Requires TSAHC's annual report of financial activity to the governor, the lieutenant governor, the speaker, the comptroller, and the Legislative Budget Board to include certain financial information.

Requires a compliance contract or agreement between the corporation and a multifamily housing sponsor that received bond financing through TSAHC for affordable multifamily housing to contain a provision stating that if the housing sponsor failed to comply with the terms of the contract or agreement, the corporation could: assess penalties; remove the manager of the affected property and select a new manager; withdraw reserve funds to make needed repairs and replacements to the property; or appoint the corporation as a receiver to protect and operate the property.

Requires TSAHC to maintain a system to promptly and efficiently act on complaints.

Provides that in appointing TSHAC commissioners, a municipality with a municipal housing authority composed of five commissioners is required to appoint to the authority at least one commissioner who is a tenant of a public housing project over which the authority has jurisdiction.

Provides that in appointing commissioners a municipality with a municipal housing authority composed of seven or more commissioners is required to appoint to the authority at least two commissioners who are tenants of a public housing project over which the authority has jurisdiction.

Provides that the presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 150 or fewer is not required to appoint a tenant to the position of commissioner if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

Prohibits an appointed commissioner from serving more than two consecutive two-year terms.

Provides that the mentioned provisions do not apply to a municipality that has a municipal housing authority in which the total number of units is 150 or fewer.

Continues TSAHC until September 1, 2023.

Continuation of Commission on State Emergency Communications—H.B. 1861

by Representative Anchia—Senate Sponsor: Senator Whitmire

The Commission on State Emergency Communications (CSEC) preserves and enhances public safety in Texas. CSEC contracts with 24 regional planning commissions to provide 9-1-1 service to about one-third of Texans in mostly rural areas. Service is limited to the delivery of emergency calls and does not include the answering of the call or dispatch of emergency services; emergency communications districts and municipal emergency communications districts provide 9-1-1 service to the rest of the state. CSEC also administers the Texas Poison Control Network by funding and overseeing six regional poison control centers. These centers provide treatment information through a toll-free number to persons suspecting a poisoning or toxic exposure.

CSEC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued in existence by the legislature. SAC found that Texas has a clear and ongoing need to provide emergency communications services, but that the current 9-1-1 system has not kept pace with evolving technologies. As a result, the state does not have a statewide, digital emergency communications system. This bill:

Authorizes CSEC to coordinate and develop a digital emergency communications network referred to as the Next Generation Emergency Communications System or NG9-1-1.

Requires CSEC to establish an advisory committee to assist with the development and implementation of the state-level network and the state's Next Generation Emergency Communications System.

Continues CSEC for 12 years.

Texas Department of Insurance—H.B. 1951

by Representative Larry Taylor—Senate Sponsor: Senator Hegar

Texas first began regulating insurance in 1876, when the legislature created the Department of Insurance, Statistics, and History, later changing the name of the agency several times and expanding its duties. Today, the Texas

Department of Insurance (TDI) regulates insurance companies' solvency, rates, forms, and market conduct; licenses individuals and entities involved in selling insurance policies; provides consumer education and resolves consumer complaints; takes enforcement action against those who violate insurance laws; and provides fire prevention services across the state. TDI also regulates workers' compensation insurance; however, the Division of Workers' Compensation of TDI has its own Sunset date and is addressed in separate legislation.

TDI is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC found that Texas has a clear and ongoing need to regulate insurance, but that changes are needed to improve the transparency and accountability of TDI's current statutory responsibilities. This bill:

Establishes deemer periods—the period in which the insurers file rates and forms and, if not disapproved within a certain length of time then the rates are deemed approved—for TDI's review of all property and casualty rate filings. Provides that TDI will have 30 days to request information from insurers, conclude rate review, and disapprove rates as necessary.

Authorizes the commissioner of insurance (commissioner) to extend the review period for one additional 30-day period only, and only for good cause.

Provides that if TDI requests additional information from insurers, the time it takes for insurers to respond to TDI's requests will not count against TDI's review period.

Authorizes TDI to administratively disapprove rates until the point that companies implement rates, or the expiration of the review period, whichever event occurs first.

Requires TDI, if TDI wants to disallow a rate following the review period, to disapprove the rate following its implementation, using the contested case process.

Requires TDI to further define, through rulemaking, the process for requesting supplemental information from insurers during its review of property and casualty rates.

Requires TDI in the review process, at a minimum, to make requests in a timely manner, enabling insurers to respond to requests and implement rates more quickly; reduce the number of separate requests; more specifically define the kinds of information that TDI can request during a rate review; and track and routinely analyze the volume and content of information requests to identify trends and ensure that requests are reasonable.

Requires TDI to track and analyze the factors that contribute to administrative disapproval of rates.

Requires TDI to track precedent related to disapprovals to help ensure that TDI consistently applies rate standards.

Requires TDI to make information about TDI's general process for rate review and the factors that contribute to disapprovals available to the public on a yearly basis.

Requires all information provided to the public to be general, so as not to infringe upon any individual company's proprietary rate development data or techniques.

Requires TDI to further define, through rulemaking, guidelines that constitute rating practices, financial conditions, or statewide emergencies that could subject an insurer to prior-approval review.

Provides that the commissioner maintains the authority to determine whether an individual company's practices or statewide situations warranted additional scrutiny through prior approval.

Requires TDI to periodically assess whether insurers need to remain under prior approval for rate filings.

Requires TDI to provide companies with written information, when they are placed under prior approval, detailing the steps they must take to return to file-and-use review.

Requires the commissioner, when an insurer meets the stated conditions, to issue an order stating that the financial condition, rating practices, or statewide emergency no longer exists, and that future company filings will be subject to file-and-use.

Requires TDI to collect aggregate claims data including the number of claims filed; pending, including pending litigation; closed with or without payment; and carrying over during the reporting period; as well as any other relevant information relating to the processing of claims.

Requires this information to be collected on an annual basis, with the information broken down by quarter.

Requires TDI to publish or disseminate the collected information to the general public via the agency's website.

Authorizes TDI to adopt rules as necessary.

Requires the commissioner of Insurance to assess, at least once every five years, the expense data collected for purposes of promulgating title rates and consider whether the data should be revised to capture additional or different information, or whether any items no longer remain necessary.

Eliminates 15 existing committees.

Authorizes the commissioner to create or re-create advisory committees in rule, as necessary, to provide expertise and to advise TDI.

Requires the commissioner of insurance to adopt rules, in compliance with Chapter 2110 (State Agency Advisory Committees), Government Code, regarding the purpose, structure, and use of TDI's advisory committees.

Requires TDI to routinely evaluate advisory committees to ensure that they continue to serve a purpose, and authorizes TDI to retain or develop committees to meet its changing needs.

Provides that all committees will be structured and used to advise the commissioner, the state fire marshal, or staff, but not be responsible for rulemaking or policymaking.

Requires the committees meetings to be open to the public.

Requires the State Fire Marshal's Office (SFMO) to periodically inspect state-leased buildings, and to take action necessary to protect state employees and the public from fire hazards in state-leased buildings.

Requires the SFMO to share and coordinate state-leased building inspection information with affected agencies, the Texas Facilities Commission (TFC), and the State Office of Risk Management (SORM), as already required with state-owned buildings.

Authorizes agencies to make informed decisions regarding lease agreements, but not pre-empt compliance with locally adopted fire safety codes.

Requires SFMO to create a risk-based approach to conducting routine inspections of state buildings.

Requires SFMO to develop guidelines for assigning potential fire safety risks to state buildings.

Requires the commissioner to adopt these guidelines as rules, allowing for public input.

Requires the rules to address a planned time frame for continuing to inspect all buildings under SFMO's purview.

Requires SFMO to periodically report its findings on state-owned and state-leased building inspections to the relevant committees of the legislature.

Authorizes SFMO to establish a reasonable fee for performing private building inspections.

Requires the commissioner to adopt these guidelines as rules, allowing for public input.

Requires SFMO, in developing the fee amount, to consider its overall costs in performing these inspections, including the approximate amount of time staff needs to perform the inspection, travel costs, and other expenses.

Requires the commissioner to establish, by rule, a penalty matrix for SFMO licensee violations to ensure fair and consistent application of fines.

Requires the commissioner by rule to delegate the administration of these penalties to SFMO.

Provides that in developing the penalty matrix, the commissioner will take into account factors including the licensee's compliance history, seriousness of violation, or the threat to the public's health and safety.

Requires the penalty amounts to reflect the severity of the violation and serve as a deterrent to violations.

Requires the commissioner to adopt rules defining which types of enforcement actions will be delegated to SFMO, and outlining the process by which SFMO will assign penalties.

Authorizes a licensee to dispute the fine, and request a contested case hearing.

Provides that if a licensee does not pay the fine, SFMO will refer the case to TDI's enforcement division.

Requires the commissioner to study the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements, and to include the study results in TDI's biennial report.

Requires the commissioner to consider, when designating areas of the state as "underserved," reasonable access to the full range of coverages and policy forms.

Requires the commissioner, at least once every six years, to determine which areas to designate as underserved and to study the accuracy of current designations for the purposes of increasing and improving access to insurance in these areas.

Specifies that property and casualty rate filings and any supporting information filed with TDI are public information subject to the Texas Open Records Act, including the law's applicable exceptions from required disclosure; rather than open to public inspection as of the date of the filing, as is current practice.

Redefines "supporting information" to include any information TDI receives from a rate filer in response to a request from TDI.

Prohibits an insurer or insurer agent from reporting to a claims database information relating to policyholders' inquiries regarding coverage, unless or until the policyholder files a claim.

Requires certain health care plans to provide enrollees a 60-day notice of premium increases and enhanced consumer information.

Requires the plans to provide each enrollee with written notice of a premium increase not less than 60-days before the effective date, and requires the plan to provide a table with the actual dollar amount of the current charge and the increased charge, and the percentage of change.

Provides that the notice requirements do not prevent the plan and enrollee from negotiating a coverage or rate change after the notice.

Prohibits a plan from requiring an enrollee to respond to or take action on the notice to renew coverage before the 45th day after notice is given.

Requires that the notice include information about contacting and filing complaints with TDI and other consumer assistance resources.

Authorize TDI to adopt rules necessary to increase the availability of insurance to children less than 19 years of age.

Authorizes the commissioner to adopt rules necessary to increase the availability of coverage to children younger than 19 years of age; establish an open enrollment period; and establish qualifying events as exceptions to an open enrollment period, including loss of coverage when a child becomes ineligible for coverage under the state child health plan.

Authorizes the commissioner to adopt rules on an emergency basis using procedures under the Government Code.

Prohibits health plans from requiring a therapeutic optometrist or ophthalmologist to participate in a particular vision panel as a condition for inclusion in the plan's medical panel.

Prohibits a managed care plan from requiring, as condition to be included in the plan's medical panel, a therapeutic optometrist or ophthalmologist to be included in, or accept the terms of payment under or for, a particular vision panel.

Provides an exemption from agent licensure for persons writing a limited amount of job protection insurance.

Exempts a person from property and casualty insurance agent licensing requirements, if that person sold job protection insurance policies that generated less than \$40,000 in direct premium in the previous year.

Increases the monetary threshold requiring reinsurance from "any liability in excess of \$100,000" to "any liability in excess of \$1 million" for surety companies without a certificate of authority from the United State Secretary of the Treasury to execute certain surety bonds that exceeds \$100,000.

Removes a provision of state law that prohibits an amount reinsured by a reinsurer from exceeding 10 percent of the reinsurer's capital and surplus.

Reduces the minimum number of curriculum hours required for licensure from eight hours to seven hours.

Requires that one of those minimum hours be dedicated to completing the course examination.

Requires the course examination to contain a minimum of 25 questions, and that an applicant accurately answer at least 80 percent of the questions to pass the examination.

Establishes a nine-member adjuster advisory board to make recommendations to the commissioner on issues related to licensing and regulation of insurance adjusters; professionally relevant issues such as claims handling, ethics, and catastrophic loss preparedness; and any matter the commissioner submits for recommendation.

Requires the commissioner to appoint to the adjuster advisory board two public insurance adjusters; two members representing the general public; two independent adjusters; one adjuster representing a domestic insurer authorized to engage in business in the state; one adjuster representing a foreign insurer authorized to engage in business in the state; and one representative of the Independent Insurance Agents of Texas.

Continuation of Texas Public Finance Authority—H.B. 2251

by Representative Bonnen—Senate Sponsor: Senator Whitmire

The Texas Public Finance Authority (TPFA) issues bonds and manages debt service on behalf of its clients, which currently include 18 state agencies, three universities, the TPFA Charter School Finance Corporation, and the Texas Windstorm Insurance Association. TPFA's mission is to provide the most cost-effective financing available to fund capital projects, equipment purchases, and other programs authorized by the Legislature. TPFA centralizes the state's debt issuance by serving agencies and universities that generally use debt financing infrequently and lack the in-house expertise to issue bonds cost effectively.

TPFA is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC concluded that the consolidation of smaller and infrequent debt issuance in one agency has significant positive value for the state. Given the ongoing need for TPFA's functions, SAC identified opportunities to expand the use of TPFA's expertise and track record, and in one recommendation, remove a multi-million dollar obstacle to efficiently issuing debt for cancer research and prevention. This bill:

Continues TPFA for 12 years.

Removes the requirement that the Cancer Prevention and Research Institute of Texas (CPRIT) escrow multi-year grant awards.

Extends TPFA's standard authority to stagger debt issuance to include CPRIT grants.

Adds CPRIT grants to the list of projects funded by general obligation bonds that can move forward before TPFA has issued the debt, as long as TPFA and the Bond Review Board have approved the issuance.

Authorizes TPFA to provide debt issuance services, upon agreement, to state colleges and universities that generally issue their own debt, and to be reimbursed for these services.

Specifies that changes to CPRIT's debt issuance do not affect grants awarded before the effective date of the Act.

Authorizes TPFA to issue debt for Texas State Technical College.

Removes the requirement that Stephen F. Austin State University use TPFA, allowing that university the flexibility to issue its own debt or use TPFA.

Specifies that changes to university debt issuance do not apply to bonds authorized before the effective date of the Act.

Continuation of Texas Racing Commission—H.B. 2271*by Representative Anchia—Senate Sponsor: Senator Hinojosa*

In 1986, the legislature passed the Texas Racing Act, allowing pari-mutuel wagering on horse and greyhound races and creating the Texas Racing Commission (TRC) to oversee the racing industry. TRC's authority spans from licensing racetracks and their employees, to overseeing live racing events, and monitoring and certifying wagering transactions.

TRC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC found that TRC needs stronger regulatory tools to help oversee today's declining racing industry.

Created by the 72nd Legislature in 1991, the 11-member Equine Research Account Advisory Committee is part of the TRC. The role of the committee is to recommend funding for equine research projects, initially using a portion of the wagers placed on Texas horse races. The director of Texas AgriLife Research, which is affiliated with The Texas A&M University System, makes the final grant awards. For the past three sessions, the legislature has not appropriated account funds for research grants, and instead, Texas AgriLife funded grants recommended by the committee. SAC found that the committee has not provided clear outcomes for its funding decisions and, with the legislature hesitant to appropriate account funds for research, determined that a statutorily mandated committee is no longer needed. This bill:

Requires TRC to designate racetrack licenses as either active or inactive and develop, in rule, renewal criteria for licenses designated as inactive.

Requires TRC to develop an annual process for inactive racetrack licenses, and authorizes TRC to refuse to renew an inactive license.

Clarifies that racetrack licenses are not issued in perpetuity.

Requires TRC to complete a review of active racetrack licenses every five years, and clarifies TRC's revocation authority.

Authorizes TRC to require racetrack licensees to post security at any time.

Eliminates uncashed winning tickets as a source of TRC revenue.

Authorizes TRC to adjust license fees to compensate for lost revenue as a result of this change in funding.

Provides a TRC Sunset date of September 1, 2017.

Abolishes the Equine Research Committee but continues the authority of Texas AgriLife Research to expend appropriated Equine Research Account funds.

Requires TRC to make a determination on a license application within 120 days of the applicant fulfilling all the requirements for licensure and requires TRC to notify the applicant once an application is administratively complete.

Requires TRC to provide guidance, in rule, as to what constitutes good faith efforts for determining whether a racetrack is active.

Removes the requirement that TRC revoke or suspend an inactive racetrack license that fails to conduct live racing within three years of the issuance of the license.

Continuation of Department of Information Resources—H.B. 2499 [Vetoed]

by Representative Cook—Senate Sponsor: Senator Nichols

The intent of this bill is to enact the recommendations of SAC regarding the Department of Information Resources (DIR). DIR is the state's information technology and telecommunications agency. DIR coordinates and supports several critical functions for state agencies and local governments including data center services consolidation; cooperative contracts for information and communications technology services and commodities; the state's telecommunication network (TEX-AN); the Capitol Complex Telephone System; and the state's official website (Texas.gov).

DIR is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC found that Texas continues to need an agency such as DIR to provide these critical services, but identified serious concerns with DIR's management of its internal operations and a lack of much needed oversight. SAC's recommendations aim to limit DIR's focus and increase attention and oversight of the agency by DIR's board and the legislature.

DIR is governed by Chapter 2054 (Information Resources), Government Code, and its statewide purchasing program for information and communications technology commodities is governed by Chapter 2157 (Purchasing: Purchase of Automated Information Systems), Government Code. This bill:

Requires DIR's board to have specific expertise and additional training.

Creates a customer advisory committee to provide feedback to the DIR board.

Requires the board to employ an internal auditor and establish an audit subcommittee.

Requires DIR management to create clear criteria for the use of outside consultants, and continues major outsource contracts, such as contracts for data consolidation centers.

Appoints a new DIR board.

Transfers the statewide purchasing program for information technology to the comptroller of public accounts (comptroller), which will allow the state's purchasing power to better negotiate discounts for state agencies.

Requires SAC to evaluate the transfer of those powers and duties to the comptroller and present to the 84th Legislature a report on its evaluation and recommendations in relation to the transfer.

Provides a Sunset date for that transfer of powers and duties to the comptroller of September 1, 2015.

Requires the comptroller to report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority.

Requires the agency to undergo SAC review in six years.

Division of Workers' Compensation of the Texas Department of Insurance—H.B. 2605

by Representative Larry Taylor—Senate Sponsor: Senator Huffman

The 79th Legislature made sweeping changes to the workers' compensation system including abolishing the standing regulatory agency and creating the Division of Workers' Compensation (DWC) within TDI to regulate and administer the workers' compensation system in Texas. The division's regulation of the workers' compensation

system aims to accomplish four basic goals established by the legislature, including insuring that each employee: is treated with dignity and respect when injured on the job; has access to fair and accessible dispute resolution process; has access to prompt, high-quality medical care; and returns to employment as soon as considered safe and appropriate.

DWC regulates the workers' compensation system in Texas primarily by administering a dispute resolution process for income benefits, medical care, and payment for medical treatment; establishing fee and treatment guidelines for medical services; providing safety resources, education services, and training for system participants; certifying employers who choose to self-insure; and enforcing compliance with statutes and rules.

DWC has a separate Sunset date from TDI, and will be abolished September 1, 2011, unless continued by the legislature. SAC found that Texas has a continuing need for the DWC's functions. However, DWC is still in transition and several operational areas of DWC showed flaws that need statutory repair to fairly and equitably treat injured workers and other system participants. This bill:

Requires injured employees, employers, health care practitioners, insurance carriers, and other parties to a dispute to obtain information necessary to facilitate resolution of the dispute as part of the initial request for a benefit review conference (BRC).

Authorizes DWC staff to deny the request for a BRC if participants have failed to attest to having necessary documentation, such as medical records.

Requires parties to a dispute to provide notice to DWC before rescheduling a BRC.

Requires that failure to abide by the DWC-approved system for rescheduling would result in forfeiting an opportunity to attend a BRC.

Provides that parties to a dispute who reach the statutory two BRC limit could resolve the dispute themselves or proceed to a formal contested case hearing.

Requires parties to a non-network medical fee dispute to participate in a BRC administered by DWC as a prerequisite to filing an appeal for a contested case hearing.

Authorizes parties dissatisfied with the staff decision to file an appeal for mediation as a prerequisite to proceeding to a contested case hearing.

Provides that parties to the dispute will be able to resolve issues, such as billing discrepancies, but are not be authorized to negotiate fees outside of DWC's adopted fee guidelines.

Requires contested case hearings held on network medical necessity disputes to conform to the same procedures outlined in the Labor Code as those contested case hearings conducted on appeals of non-network medical necessity disputes.

Clarifies that medical necessity disputes arising between injured employees and their political subdivision employer are subject to the same contested case hearing process as other network medical necessity and fee disputes.

Authorizes the judge to review the formal record resulting from a contested case hearing before DWC.

Requires all contested case hearings for medical necessity cases will be held before DWC, with appeals of medical necessity contested case hearing decisions, including those decisions related to spinal surgery cases, no longer subject to DWC's appeals panel review before appealing to district court.

Requires all medical fee contested case hearings to be held before the State Office of Administrative Hearings (SOAH).

Requires the losing party appealing DWC's staff-level medical fee decision to pay all associated hearing costs at SOAH.

Authorizes the commissioner of workers' compensation to intervene in cases sent to SOAH that involve issues of fee guideline interpretation.

Authorizes DWC's appeals panel to issue written decisions affirming contested case hearing decisions on only the following types of cases: cases of first impression; cases that are impacted by a recent change in law; and cases involving errors which require correction but which do not affect the outcome of the dispute.

Requires DWC to develop criteria, subject to the approval of the commissioner of workers' compensation.

Requires DWC to consult with the medical advisor and consider input from key stakeholders.

Requires DWC to define, at a minimum, a fair and transparent process for the handling of complaint-based cases, and selection of health care providers and other entities for review.

Requires DWC to make the adopted process for conducting both complaint-based and audit-based reviews available to stakeholders on its website.

Establishes the Quality Assurance Panel in statute, providing a second level of evaluation for all medical case reviews.

Requires members of the panel to evaluate medical care and recommend enforcement actions to the medical advisor; and for the panel to meet periodically to discuss issues and offer assistance to the medical advisor.

Requires the commissioner of workers' compensation, subject to input from the medical advisor, to adopt rules outlining clear prerequisites to serve as a medical quality review process expert reviewer, including necessary qualifications and training requirements.

Requires DWC to include: a policy outlining the composition of expert reviewers serving on the Medical Quality Review Panel (MQRP), including the number of reviewers and all health care specialties represented; a policy outlining the length of time a member may serve on MQRP; procedures defining areas of potential conflicts of interest between MQRP members and subjects under review and the avoidance of such conflicts; and procedures governing the process and grounds for removal from MQRP, including instances when members are repeatedly delinquent in completing case reviews or submitting review recommendations to DWC.

Requires DWC to develop rules on training, including educating MQRP members about the status and enforcement outcomes of cases resulting from the medical quality review process, and requires MQRP members to fulfill training requirements to ensure that panel members are fully aware of the goals of DWC's medical quality review process and the Texas Workers' Compensation Act.

Requires DWC, in consultation with the medical advisor, to work with health licensing boards, beyond just the Texas Medical Board and the Texas Board of Chiropractic Examiners, as necessary, to expand the pool of health care providers available as expert reviewers.

Requires DWC to work with the Texas Medical Board to increase the pool of specialists available, as necessary.

Requires DWC to develop clear procedures defining the entities and records subject to inspection, and how it will use its unannounced inspection authority.

Authorizes the commissioner of workers' compensation to issue cease-and-desist orders in emergency situations.

Expedites hearings relating to emergency cease-and-desist authority, and authorizes DWC to assess administrative penalties against persons or entities violating cease-and-desist orders.

Specifies that any appeal of the commissioner of workers' compensation enforcement order is subject to the substantial evidence rule.

Removes final decision authority from SOAH in enforcement cases involving monetary penalties, and requires the commissioner of workers' compensation to enter final orders upon consideration of a proposal for decision from SOAH.

Requires the commissioner of workers' compensation to adhere to provisions in the Administrative Procedure Act governing how an agency may consider, adopt, or change proposals for decision, and requires DWC to amend its current memorandum of understanding with SOAH to include procedures for handling SOAH proposals for decision for monetary penalties.

Requires the commissioner of workers' compensation to develop a certification process, in rule, that effectively uses the spectrum of eligibility, training, and testing to assess the general proficiency of designated doctors.

Requires DWC to develop a process that ensures doctors have either the appropriate specialty qualification, through educational experience or previous training, or demonstrated proficiency, through additional training and testing, to serve as a designated doctor.

Requires DWC, if the agency chooses to continue to rely on an outside provider, to involve staff in the development of course materials and tests, and requires that all final products obtain the approval of the commissioner of workers' compensation.

Requires DWC to formulate a process for maintaining and regularly updating course materials, regardless of whether training and testing materials are developed in-house or by an outside provider.

Requires the commissioner of workers' compensation to develop, by rule, certain circumstances permissible for a designated doctor to discontinue service in a particular area of the state or with a particular case. Provides that such circumstances could include a decision to stop practicing in the workers' compensation system, relocation, or other instances where the doctor is no longer available.

Continues DWC for six years, as a division within TDI, instead of the standard 12-year period.

Requires DWC to develop standard procedures to formally document and analyze complaints, including both formal and informal complaints.

Requires DWC to compile statistics, including the number, source, type, length of resolution time, and disposition of complaints, and to analyze complaint information trends.

Requires DWC to expedite a contested case hearing or appeal request submitted by a first responder who has sustained a work-related, serious bodily injury.

Requires a political subdivision, insurance carrier, and DWC to accelerate and give priority to a first responder's claim for medical benefits.

Authorizes injured employees to obtain a second opinion for certain medical determinations.

Authorizes an employee who is required to be examined by a designated doctor for an initial determination of maximum medical improvement or an impairment rating to request a re-examination from either their treating doctor or another doctor if they are dissatisfied with the designated doctor's opinion.

Requires DWC to adopt guidelines prescribing the situations where a treating doctor exam is appropriate.

Texas Department of Housing and Community Affairs—H.B. 2608 [Vetoed]

by Representative Harper-Brown—Senate Sponsor: Senator Hinojosa

The 72nd Legislature created the Texas Department of Housing and Community Affairs (TDHCA) in 1991, by merging the Texas Housing Agency and the Texas Department of Community Affairs. TDHCA ensures the availability of affordable housing, provides community assistance, and regulates the manufactured housing industry. TDHCA's mission is to help Texans achieve an improved quality of life through better community development.

Over the last several years, TDHCA has also helped funnel billions of dollars of federal aid to help Texas recover from hurricanes and the economic downturn.

TDHCA is subject to the Sunset Act and will be abolished September 1, 2011, unless continued by the legislature. SAC concluded that Texas has an ongoing need for the functions of TDHCA, particularly in disbursing federal funds, but that changes are needed to improve the agency's efficiency. This bill:

Requires the notice of a violation to include a brief summary of the alleged violation; state the amount of the recommended penalty; and informs the person of the person's right to a hearing before SOAH, rather than the governing board of TDHCA, on the occurrence of the violation, the amount of the penalty, or both.

Requires the executive director of TDHCA, if the person requests a hearing before SOAH or fails to respond in a timely manner to the notice, to set a hearing and give written notice of the hearing to the person.

Requires SOAH to hold a hearing, make findings of fact and conclusions of law about the occurrence of the violation and the amount of a proposed penalty, and issue a proposal for decision regarding the penalty and provide notice of the proposal to the governing board of TDHCA (board).

Provides that any administrative proceedings relating to the imposition of a penalty under Section 2306.041 (Imposition of Penalty) is a contested case under Chapter 2001 (Administrative Procedure).

Requires the board to issue an order after receiving a proposal for decision from SOAH under Section 2306.045 (Hearing).

Provides that a judicial review of a board order imposing an administrative penalty is under the substantial evidence rule.

Requires an annual low income housing report to include certain information.

Requires the low income housing plan to include certain information.

Requires the board, by rule, to adopt a policy providing for the debarment of a person from participation in programs administered by TDHCA.

Authorizes TDHCA to debar a person from participation in a TDHCA program on the basis of the person's past failure to comply with any condition imposed by TDHCA in the administration of its programs.

Requires TDHCA to debar a person from participation in a TDHCA program if the person violates certain conditions imposed by TDHCA in connection with the administration of a TDHCA program, participation in federal housing programs by the United States Department of Housing and Urban Development.

Authorizes a person debarred by TDHCA from participation in a TDHCA program to appeal the person's debarment to the board.

Requires local and interjurisdictional emergency management plans to identify any requirements or procedures that local agencies and officials must satisfy or implement to qualify for long-term federal disaster recovery funding, and prepare for long-term disaster recovery, and any appropriate state or local resources available to assist the local agencies and officials in satisfying or implementing those requirements or procedures.

Requires TDHCA or another agency or office, in consultation with the office of the governor, to develop a long-term disaster recovery plan to administer money received for disaster recovery from the federal government or any other source.

Requires that certain entities be consulted regarding the long-term disaster recovery plan, including existing disaster recovery entities established by law or local, state, or federal agreements; local government officials, contractors, community advocates, businesses, nonprofit organizations, and other stakeholders; and the United States Department of Housing and Urban Development to ensure that the plan complies with federal law.

Requires that the long-term disaster recovery plan adhere to certain requirements regarding disaster relief as it pertains to housing.

Requires the agency or office, in developing the long-term disaster recovery plan, to seek input from county judges and mayors in areas impacted by large-scale natural disasters regarding the development of future methods of distributing federal funding for long-term disaster recovery.

Requires that the long-term disaster recovery plan be updated biennially and approved by the governor.

Requires the governor, biennially, to designate a state agency or office to be the primary agency or office in charge of coordinating the distribution of long-term disaster recovery funding.

Requires the director and advisory committee, using the natural disaster housing reconstruction plan developed, to develop for implementation housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters.

Requires the pilot programs to provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural disasters.

Authorizes TDHCA, if the local requirements, regulations, or environmental factors of an area require elevation of houses, to deviate from the 20-house requirement and determine the number of houses needed to test the feasibility of implementing the plan.

Requires the board, at least biennially, to adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program.

Authorizes the board to adopt qualified allocation plan and manual annually, as considered appropriate by the board.

Requires the board, regardless of whether the board has adopted the qualified allocation plan annually or biennially, to submit to the governor any proposed qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use.

Requires the governor to approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

Provides that to the extent TDHCA receives federal emergency funds that must be awarded by TDHCA in the same manner as and that are subject to the same limitations as awards of housing tax credits, any reference in this chapter to the administration of the housing tax credit program applies equally to the administration of the federal funds.

Authorizes TDHCA, notwithstanding any other law, to establish a separate application procedure for the federal emergency funds that does not follow the uniform application cycle or the deadlines established by Section 2306.6724 (Deadlines for Allocation of Low Income Housing Tax Credits), and provides that any reference to an application period occurring in relation to those federal emergency funds refers to the period beginning on the date TDHCA begins accepting applications for the federal funds and continuing until all of the available federal funds are awarded.

Authorizes the director of the manufactured housing division of TDHCA (division; division director) to allow an authorized employee of the division to dismiss a complaint if an investigation demonstrates that a violation did not occur, or the subject of the complaint is outside the division's jurisdiction under this subchapter.

Requires an employee who dismisses a complaint to report the dismissal to the division director and the board and that requires that the report include a sufficient explanation of the reason the complaint was dismissed.

Requires the division to develop and implement a policy to encourage the use of negotiated rulemaking procedures for the adoption of division rules; and appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the division's jurisdiction.

Requires the division's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by SOAH for the use of alternative dispute resolution by state agencies.

Requires the division to coordinate the implementation of the relating to alternative dispute resolution policy; provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures.

Requires the manufactured housing board to establish fees for the issuance and renewal of licenses for manufacturers, retailers, brokers, salespersons, and installers.

Authorizes the manufactured housing board by rule to establish a fee for reprinting a license issued under this chapter.

Prohibits a person from repairing, rebuilding, or otherwise altering a salvaged manufactured home unless the person holds a retailer's license, rather than a rebuilder's or retailer's license.

Prohibits a retailer from being licensed to operate more than location under a single license.

Requires an applicant for a license as a manufacturer, retailer, broker, or installer to file with the director a license application containing certain information.

Requires TDHCA to require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the manufactured housing board, to TDHCA or to DPS for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI).

Provides that the applicant is required to submit a set of fingerprints only once unless a replacement set is otherwise needed to complete the criminal history.

Requires TDHCA to refuse to issue a license to, or renew the license of, a person who does not comply with this requirement.

Requires TDHCA to conduct a criminal history check of each applicant for a license or renewal of a license using information provided by the individual; and made available to TDHCA by DPS, the FBI, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

Authorizes TDHCA to enter into an agreement with DPS to administer a criminal history check required under this section.

Requires the applicant to pay the cost of a criminal history check.

Sets forth the requirements for a person to apply for a manufacturer's, retailer's, broker's, installer's, or salesperson's license.

Requires an applicant for a license or a license holder to file a bond or other security.

Requires TDHCA to establish an installation inspection program in which at least 75 percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director.

Requires that the program place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

Requires the division director by rule, on or after January 1, 2015, to establish a third-party installation inspection program to supplement the inspections of TDHCA if TDHCA is not able to inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

Sets forth the third-party installation inspection program participation requirements.

Prohibits a person from selling, conveying, or otherwise transferring to a consumer in this state a manufactured home that is salvaged.

Provides that a salvaged manufactured home may be sold only to a licensed retailer, rather than to a licensed retailer or a licensed rebuilder.

Authorizes the division director, instead of requiring a consumer, to apply for compensation from the trust fund under Subchapter I (Manufactured Homeowners' Recovery Trust Fund), to order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from certain violations.

Requires the division director to prepare information for notifying consumers of the division director's option to order a direct refund, to post the information on TDHCA's Internet website, and to make printed copies available on request.

Authorizes the division director to issue, without notice and hearing, an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance if the division director has reasonable cause to believe that a person has violated any rule or statute.

Authorizes the division director to issue an order to any person to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to any such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such violation is expressly subject to inspection and regulation by another state agency; provided, however, that if any matter involves a law that is subject to any other administration or interpretation by another agency, the division director is required to consult with the person in charge of the day-to-day administration of that agency before issuing an order.

Provides that if a licensed person fails to pay an administrative penalty that has become final or fails to comply with an order of the division director that has become final, in addition to any other remedy provided by law, the division director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license.

Requires the suspension to continue until the person has complied with the cease and desist order or paid the administrative penalty. Provides that during the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

Requires the governor, not later than October 1, 2011, to designate a state agency or office to be the primary agency or office in charge of coordinating the distribution of long-term disaster recovery funding as required under Section 2306.531, Government Code, as added by this Act.

Continuation of TCEQ and Abolishment of On-site Wastewater Treatment Research Council—H.B. 2694

by Representative Wayne Smith—Senate Sponsor: Senator Huffman

The Sunset Advisory Commission found that Texas has a clear and ongoing need to regulate environmental quality, but TCEQ needs changes to refocus and become more effective in carrying out its core duties. This bill:

Continues TCEQ for 12 years.

Prohibits a member of TCEQ from accepting a contribution to a campaign for election to an elected office.

Requires TCEQ to develop and implement a policy to encourage negotiated rulemaking procedures and alternative dispute resolution procedures to assist in the resolution of internal and external disputes under TCEQ's jurisdiction.

Authorizes the executive director of TCEQ (executive director) to directly award a contract for scientific and technical environmental services and engineering services if the persons and the contracts meet certain requirements.

Requires TCEQ, in performing its duties, to identify and focus on the most hazardous dams in the state.

Authorizes the Railroad Commission of Texas (railroad commission) to adopt rules regarding the depth of well casings necessary to meet the requirements of Section 91.011 (Casing), Natural Resources Code.

Requires the railroad commission to issue, on request from an applicant for a permit for a well to be drilled into oil or gas bearing rock, a letter of determination stating the total depth of surface casing required for the well by Section 91.011, Natural Resources Code. Authorizes the railroad commission to charge a fee for a letter of determination. Authorizes the railroad commission to charge a fee not to exceed \$75 for processing a request to expedite a letter of determination. Authorizes collected fees to be used to study and evaluate electronic access to geologic data and surface casing depths.

Requires the railroad commission to work with other appropriate state agencies to study and evaluate electronic access to geologic data and surface casing depths necessary to protect usable groundwater in the state.

Requires the railroad commission to adopt rules to establish groundwater protection requirements for operations that are within the jurisdiction of the railroad commission, including requirements relating to the depth of surface casing for wells.

Requires a person making application to the railroad commission for a permit under Chapter 27 (Injection Wells), Water Code, to submit with the application a letter of determination from the railroad commission stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

Requires the executive director to ensure that TCEQ is responsive to environmental and citizens' concerns, including environmental quality and consumer protection. Requires the executive director to develop and implement a program to provide a centralized point for the public to access information about TCEQ and to learn about matters regulated by TCEQ, identify and assess the concerns of the public in regard to matters regulated by TCEQ and respond to concerns identified by the program.

Provides that the primary duty of the Office of Public Interest Council (OPIC) is to represent the public interest as a party to matters before TCEQ.

Requires OPIC to report an evaluation of OPIC's performance in representing the public interest in the preceding year, an assessment of the budget needs for OPIC, including the need to contract for outside expertise; and any legislative or regulatory changes recommended under Section 5.273 (Duties of the Public Interest Counsel), Water Code, to TCEQ each year in a public meeting.

Requires TCEQ and OPIC to work cooperatively to identify performance measures for OPIC.

Requires TCEQ by rule, after consideration of recommendations from OPIC, to establish factors OPIC must consider before it decides to represent the public interest as a party to a TCEQ proceeding. Sets forth the requirements for the rules adopted by TCEQ.

Requires TCEQ by rule, consistent with other law and the requirements necessary to maintain federal program authorization, to develop standards for evaluating and using compliance history that ensure consistency. Authorizes TCEQ, in developing the standards, to account for the differences among regulated entities.

Requires that notices of violation, except as otherwise provided in Section 5.753(d), Water Code, be included as a component of compliance history for a period not to exceed one year from the date of issuance of each notice of violation. Sets forth the language that must be prominently displayed for a notice of violation.

Updates the classification of compliance history from "poor," "average," and "above-average" performers to "unsatisfactory," "satisfactory," and "above satisfactory" performers.

Authorizes TCEQ to approve a supplemental environment project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent's alleged violation if the respondent is a local government.

Prohibits a person from delivering any regulated substance into an underground storage tank regulated under this chapter unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346 (Registration Requirements), Water Code.

Authorizes TCEQ to undertake corrective action to remove an underground or aboveground storage tank that is not in compliance, is out of service, presents a contamination risk, and is owned or operated by a person who is financially unable to remove the tank.

Authorizes TCEQ to use the money in the petroleum storage tank remediation account to pay certain expenses, including expenses associated with investigation, cleanup, or corrective action measures performed under Section 26.351(c-1) (relating to authorizing TCEQ to take corrective action to remove certain storage tanks), Water Code.

Sets forth the amount an operator of a bulk facility on withdrawal from bulk of a petroleum product is required to collect from the person who orders the withdrawal fee.

Requires the executive director, not later than the first anniversary of the date the executive director determines that an application to amend a water management plan is administratively complete, to complete a technical review of the plan.

Requires that compact waste disposal fees adopted by TCEQ be sufficient to provide an amount necessary to support the activities of the Texas low-level radioactive waste disposal compact commission (compact commission).

Requires that TCEQ deposit in the low-level radioactive waste disposal compact commission account (account) the portion of the fee collected under Section 401.245 (Compact Waste Disposal Fees), Health and Safety Code, that is calculated to support the activities of the compact commission as required by the Health and Safety Code.

Authorizes that money in the account be appropriated only to support the operations of the compact commission.

Requires that the state agency with jurisdiction over rates charged by water and sewer utilities provide, at a reasonable cost, electronic copies of all information provided to the agency under Section 13.016 (Record of Proceedings; Right to Hearing), 13.043 (Appellate Jurisdiction), and 13.187 (Statement of Intent to Change Rates; Hearing; Determination of Rate Level), Water Code, to the extent that the information is available and not confidential. Requires that copies of all information provided to the agency be provided to OPIC, on request, at no cost to OPIC.

Abolishes the On-site Wastewater Treatment Research Council.

Authorizes TCEQ to accept grants and donations from other sources to supplement the fees collected under Section 367.010 (Fees), Health and Safety Code. Requires that grants and donations be deposited to the credit of the water resource management account and authorizes the grants and donations to be disbursed as TCEQ directs and in accordance with Section 367.008 (Award of Competitive Grants), Health and Safety Code.

Requires the governing body of a municipally owned utility or a political subdivision to provide written notice of a rate change within 60 days after the date of a final decision on a rate change.

Authorizes the governing body of a municipally owned utility or a political subdivision to provide rate notification electronically if the utility or political subdivision has access to a ratepayer's e-mail address.

Authorizes a state agency that receives notice under Subsection 5.115(b) (relating to an application for a permit or license) Water Code, to submit comments to TCEQ in response to the notice but prohibits the state agency from contesting the issuance of a permit or license by TCEQ.

Requires the executive director to participate as a party in contested case permit hearings before TCEQ or the State Office of Administrative Hearings (SOAH) to provide information to complete the administrative record and support the executive director's position developed in the underlying proceeding.

Requires that all discovery, in a contested case hearing delegated by TCEQ to SOAH that uses prefiled written testimony, be completed before the deadline for the submission of that testimony, except for water and sewer rulemaking proceedings.

Continuation of the Texas Forest Service—S.B. 646

by Senators Nichols and Hegar—House Sponsor: Representative Cook

Created in 1915 as part of The Texas A&M University System, the Texas Forest Service (TFS) assists landowners and communities with the management and protection of forests and trees. Originally focusing on the forests of East Texas, TFS has established a statewide presence over the last 20 years, especially in its wildfire prevention and suppression role. To accomplish its mission, TFS carries out the following activities: provides personnel and grant funding to help volunteer firefighters suppress wildfires; responds to other incidents such as hurricanes and floods and trains teams of local emergency response staff; and helps landowners and communities with sustainable forestry practices to ensure the overall health of forests and trees.

TFS is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC found that there is a continuing need for TFS but that improvements can be made to the agency's wildfire planning, protection, and response roles. TFS is governed by Chapter 88 (Agencies and Services of The Texas A&M University System), Subchapter B (The Texas Forest Service), Education Code, and its major grant program, the Rural Volunteer Fire Department Assistance Program, is governed by Chapter 614 (Peace Officers and Fire Fighters), Subchapter G (Rural Volunteer Fire Department Assistance Program), Government Code. This bill:

Authorizes TFS to take all necessary actions to respond to wildfires to help best protect communities.

Continues TFS for 12 years and authorizes TFS's current emergency management functions of training and maintaining incident response teams.

Authorizes TFS to involve the volunteer fire service in statewide fire response, and ensures that these personnel have needed qualifications.

Requires TFS to develop a Texas Wildfire Protection Plan to be reported to the legislature.

Requires TFS to include criteria regarding wildfire risk and threat of loss to communities when awarding Volunteer Fire Department Assistance Program grants.

Authorizes TFS to allocate a portion of its Volunteer Fire Department Assistance Program funding to help volunteer fire departments meet cost-sharing requirements for federal grants.

Requires TFS to adopt Volunteer Fire Department Assistance Program rules and hold public meetings when making program decisions.

Authorizes the director of TFS (director) to appoint no more than 25 employees of TFS who are certified by the Texas Commission on Law Enforcement Officer Standards and Education as qualified to be peace officers to serve as peace officers in executing the enforcement duties of that agency.

Requires the appointments to be approved by board of regents of The Texas A&M University System (board) which are required to commission the appointees as peace officers.

Requires the director, on request, to cooperate with counties, towns, corporations, or individuals in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, under an agreement that the parties obtaining the assistance pay at least the field expenses of the persons employed in preparing the plans.

Authorizes the director, under the supervision of board of regents of The Texas A&M University System, to cooperate on forestry projects with the National Forest Service and other federal agencies.

Authorizes the director, subject to the authorization of the board, to execute agreements relating to forest protection projects in cooperation with federal agencies and timberland owners and to also execute agreements with timberland owners involving supervision of forest protection and forest development projects when the projects are developed with the aid of loans from a federal agency and when the supervision by the state is required by federal statute or is deemed necessary by the federal agency.

Continuation of the Office of Public Insurance Counsel—S.B. 647

by Senator Hegar—House Sponsor: Representative Larry Taylor

The legislature created the Office of Public Insurance Counsel (OPIC) in 1991, as an independent agency to advocate for consumers as a class in insurance regulation. OPIC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature.

OPIC underwent SAC review last session, but the bill did not pass. As a result, OPIC underwent a special purpose Sunset review, and this bill contains the recommendations that continue to be appropriate for consideration by this legislature. SAC found that a consumer perspective in regulating insurance is important, and that Texas benefits from maintaining an independent agency to perform this function. This bill:

Requires OPIC to develop and implement a policy to encourage the use of certain appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the office's jurisdiction.

Requires OPIC's procedures relating to alternative dispute resolution to conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution procedures by state agencies.

Requires OPIC to coordinate the implementation of the alternative dispute resolution; provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures.

Metropolitan Rapid Transit Authorities—S.B. 650

by Senator Hegar—House Sponsor: Representative Cook

Chapter 451 (Metropolitan Rapid Transit Authorities), Transportation Code, establishes metropolitan rapid transit authorities and requires an authority to impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the system sufficient to produce revenue, together with tax revenue received by

the authority, in an amount adequate to pay all necessary expenses, including outstanding debt. There are four municipalities that have established transit authorities under Chapter 451: Houston, San Antonio, Austin, and Corpus Christi.

The Capital Metropolitan Transportation Authority (Capital Metro), which serves the Austin area, is the only state transportation authority established before July 1, 1985, in a municipality with fewer than one million people. Capital Metro provides bus and shuttle services to Austin and some outlying areas on regular routes, offers paratransit services for users with disabilities who cannot use regular service, and operates a commuter rail system from Austin to Leander and freight rail on track it owns and maintains.

Capital Metro experienced significant financial problems, prompting a recommendation that the agency undergo Sunset review. Capital Metro has made progress on implementing a number of corrective initiatives, but statutory changes are needed to ensure continued progress. This bill:

Requires Capital Metro's board of directors (board) to adopt a five-year plan for capital improvement projects that supports the strategic goals that describe planned projects, including type and scope; prioritizes the projects; addresses proposed project financing, including any effect a project may have on ongoing operational costs; identifies sources of funding for projects, including local and federal funds; and establishes policies for projects.

Requires the board to hold a public meeting on a proposed capital improvement plan before adopting the plan and to make the proposed plan available to the public for review and comment.

Requires the board to annually reevaluate and, if necessary, amend the capital improvement plan.

Provides that the capital improvement plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

Prohibits the board from adopting a plan for participation of historically underutilized businesses in capital improvement projects that require a quota or any similar requirement.

Prohibits the board from conducting a capital improvement project in a way that has the effect of creating a quota for the participation of historically underutilized businesses.

Prohibits the board from spending for capital improvements in excess of the total amount allocated for major capital expenditures in the annual budget.

Requires the board to adopt rules requiring each major department of the authority to report quarterly on operating expenses and capital expenditures of the department.

Requires the board to establish a system for tracking the progress of the authority's capital improvement projects.

Requires the board to maintain, update, and post on the authority's Internet website accounting records for each authority account.

Requires the board to establish, in an account separate from other funds, a reserve account in an amount that is not less than an amount equal to actual operating expenses for two months. Sets forth the requirements to use and replenish the reserve account.

Requires the board to maintain, update, and post on the authority's Internet website accounting records of the reserve account.

Requires the board to adopt a strategic plan that establishes the authority's mission and goals and summarizes planned activities to achieve the mission and goals. Sets forth the requirements of the strategic plan.

Requires the board to adopt, and the general manager to implement, a rail safety plan in accordance with federal and industry standards for all authority rail activities, including commuter and freight rail activities. Sets forth the requirements of the rail safety plan.

Requires the general manager to report quarterly to the board on the safety of the authority's rail system.

Requires Capital Metro to provide to TxDOT all reports provided to the Federal Railroad Administration or Federal Transit Administration regarding any aspect of the rail system's safety at the time the reports are delivered to the Federal Railroad Administration or Federal Transit Administration.

Sets forth the competitive bid process for purchases of transit services.

Requires the board to adopt a policy of involving the public in board decisions regarding authority policies.

Requires the policy to ensure that the public has an opportunity to comment on board matters before a vote on the matters; ensure that any consent agenda or item of consideration at board meetings is used only for routine, noncontroversial matters; establish a time frame and mechanism for the board to obtain public input throughout the year; and plan for dissemination of information on how the public can be involved in board matters.

Requires the board to post this policy on Capitol Metro's Internet website.

Authorizes Capital Metro to issue bonds only in an amount necessary for managing or funding retiree pension benefit obligations for pension plans existing as of January 1, 2011.

Requires Capital Metro to continue to provide transportation services for persons with disabilities in a withdrawn unit of election.

Prohibits Capital Metro from charging a fare for transportation services to persons with disabilities in the withdrawn unit that is more than the fare for those services for persons in the authority.

Requires Capital Metro to establish an alternative program to provide transportation services to persons with disabilities in a withdrawn unit of election who are eligible to receive services under the program.

Requires Capital Metro to require interested persons with disabilities to apply to be program participants. Sets forth the qualifications for the program.

Requires the program to include only transportation services that meet the requirements of all applicable federal laws, rules, or regulations; and include transportation services between the residence of a program participant and a destination within the authority's service area or a destination within the withdrawn unit of election where the person with a disability resides that is the participant's place of work or a place where the participant is seeking employment, a physician's office, a pharmacy, the participant's place of voting, a grocery store within five miles of the participant's residence or within the withdrawn unit of election, or a government building.

Provides that the requirement for transportation services to a grocery store is for services once per week.

Provides that the requirement for transportation services to a government building is for services twice per week.

Prohibits a person who ceases to reside in the withdrawn unit of election from continuing as a program participant.

Consolidating Juvenile Justice Agencies—S.B. 653

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

The Texas Youth Commission (TYC) is the state's juvenile corrections agency, supervising youth committed to state confinement by local courts. The Texas Juvenile Probation Commission (TJPC) supports and oversees 165 juvenile probation departments serving all 254 Texas counties. The Office of Independent Ombudsman (OIO) is responsible for investigating, evaluating, and securing the rights of children committed to TYC.

TYC and TJPC are subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. OIO is subject to Sunset review, but is not subject to abolishment. SAC considered these three agencies through a special purpose review, as required by H.B. 3689, 81st Legislature, Regular Session, 2009, and evaluated reforms initiated through S.B. 103, 80th Legislature, Regular Session, 2007.

The Sunset re-examination found that TYC, TJPC, and OIO have implemented the majority of required reforms, but that significant problems persist in the juvenile justice system. After several years of study, SAC concluded that the time had come to consolidate the juvenile justice agencies into a single, fiscally responsible agency to serve youthful offenders. Creating a single agency will enhance reforms underway at TYC, and continue the success of initiatives to divert youth from TYC and serve them in their communities. This bill:

Provides that TYC and TJPC are abolished as of December 1, 2011, and appoints a board for the new agency, the Texas Juvenile Justice Department (TJJD).

Transfers staff, programs, policies, facilities, and obligations pertaining to TYC and TJPC to TJJD.

Provides that programs and facilities that are currently operated by local juvenile probation departments will continue to be operated locally.

Sets forth the composition of the 13-member TJJD Board, who are appointed by the governor and must include a district court judge presiding over a juvenile court, three county commissioners, a juvenile prosecutor, three chief juvenile probation officers—one from a small, medium, and large county—an adolescent mental health treatment professional, an educator, and three public members.

Provides that the board chair is designated by the governor.

Provides that the members serve staggered six-year terms.

Requires the board to hire the executive director of TJJD.

Establishes a transition team that will be in place by September 1 and October 1, 2011, which will contain seven members: a representative from TYC, TJPC, the lieutenant governor, the speaker of the house of the representatives, and the governor's office, a member who will represent youthful offenders, a youth advocates or victims, and one with experience with organizational mergers.

Requires that the governor appoint all the members of the team, except the TYC and TJPC representatives, and designate the chair of the team.

Provides that the team is charged with coordinating and overseeing the transition of services and facilities from TYC and TJPC to TJJD.

Requires the team to develop a transition plan with short-term, medium-term, and long-term planning goals.

Maintains the advisory council under the new TJJD, which is comprised of chief juvenile probation officers and has a primary responsibility of assisting TJJD to determine the needs of local juvenile probation departments.

Provides that the council will assess the impact of policy on the local departments.

Provides that any closed TYC facilities may be transferred to a local government entity that will use the facility for a public purpose.

Creates a TJJD unified juvenile justice system that provides a full continuum of effective services, prioritizing community, and family-based programs over commitment to a secure facility.

Establishes goals that use a county-based system that reduces the need for out-of-home placement, locate facilities close to necessary workforce and youths' families, and use secure facilities when necessary.

Requires TJJD to provide prevention and intervention services related to juvenile delinquency, truancy, and dropping out of school.

Requires TJJD to create and administer a statewide plan for prevention and intervention, improve efficiency and coordination, fund research-based programs, and use outcome measures.

Requires TJJD to distribute funds to community-based prevention and intervention service providers using a competitive process.

Requires the TJJD board to structure funding so that it prioritizes services so that youth are entered into rehabilitative programs in their home communities.

Requires that TJJD provide technical assistance to county juvenile probation departments on meeting state and federal educational standards for youth under their supervision.

Stipulates that TJJD to ensure continuity of educational services for youth involved in the juvenile justice system, including youth eligible for special education services.

Authorizes the State Board of Education to grant a charter school application to a youth detention or a correctional facility.

Requires TJJD to conduct an initial examination of a confined youth within three business days of commitment to identify how to address the youth's treatment needs.

Requires TJJD to assess as soon as possible during the examination whether specialized treatment is needed, such as medical, substance abuse, psychiatric, sex offending, and violent offending.

Authorizes TJJD to employ parole officers directly or contract with local juvenile probation departments to provide parole.

Requires a reentry and reintegration plan to be individually designed to ensure continuity of care post-confinement.

Requires post-release services in a youth's written plan to include, if applicable, housing assistance, placement in a halfway house, counseling, academic and vocational mentoring, trauma counseling if the youth was a victim of abuse while at TJJD, and other specialized treatment services that might be needed.

Requires that TJJJ look for alternatives when a needed service is not available so that a youth's release is not delayed.

Requires TJJJ to explain each youth's plan to the youth, and the youth to sign a document that explains any conditions of ongoing supervision.

Requires TJJJ to use performance measures related to youth outcomes, public safety, and victim restoration to evaluate the effectiveness of programs and services.

Requires the TJJJ board to make performance measure information available to the public on its website and to use the information in making funding decisions for juvenile delinquency programs and services.

Repeals a provision that requires TYC to seek accreditation for each of its facilities from the American Correctional Association.

Requires TJJJ to maintain a single toll-free hotline for youth under the supervision of a local juvenile probation department or TJJJ for the purpose of reporting abuse, neglect, or exploitation, which will be available 24 hours a day.

Requires that complaints from the hotline be shared with both the Office of Independent Ombudsman and the Office of Inspector General.

Requires TJJJ to immediately notify a local probation department if it receives a complaint related to that department.

Continues OIO as an independent state agency and requires the governor to appoint the independent ombudsman.

Authorizes OIO to investigate issues relating to a child committed to a state-run facility.

Provides that OIO will not have authority related to children in county-run facilities or programs.

Requires local juvenile probation departments to provide to OIO any data related to complaints, abuse, neglect, or exploitation, which is required to be submitted to TJJJ or a local juvenile board.

Requires OIO to assess complaints received on the hotline and review reports that are submitted to OIO, and to TJJJ by local juvenile probation departments, and report suspected standards violations to the appropriate investigative division of TJJJ.

Requires the Office of Inspector General (OIG) to report directly to the TJJJ board.

Provides that OIG has jurisdiction over crimes in state-run facilities or those committed by TJJJ employees and requires that it receive data on crimes in locally-run facilities.

Provides that alleged violations that occur in county-operated programs to be referred to local law enforcement for investigation and resolution.

Requires TJJJ to have a zero-tolerance policy on sexual abuse.

Abolishing the Coastal Coordination Council—S.B. 656

by Senators Huffman and Hegar—House Sponsor: Representative Bonnen

The Coastal Coordination Council (council) is a 12-member interagency board that administers Texas's federally approved Coastal Management Program (CMP) and coordinates Texas's approach to managing its coastal resources in compliance with federal coastal management program requirements.

SAC found that while the state clearly benefits from maintaining federal approval of its program, a separate council is no longer needed to administer it. Since staff from the General Land Office (GLO) and council-member agencies perform most of the program functions, SAC determined that GLO could more efficiently perform the council's limited duties. This bill:

Abolishes the council and assigns its functions to GLO.

Provides that the council is abolished on September 1, 2011

Requires the commissioner of the GLO to evaluate the Permitting Assistance Group (PAG) functions, membership, and usefulness

Requires the commissioner to adopt rules to restructure or abolish PAG.

Requires GLO to establish a coastal coordination advisory committee to assist with administration of the CMP.

Requires the advisory committee to advise the commissioner regarding CMP.

Requires the membership of the advisory committee to mirror the membership of the current CCC and to add four new members appointed by the commissioner.

Ensures that state laws coincide with federal laws.

Authorizes the Office of the Attorney General to review any GLO actions pertaining to CMP to ensure cooperation among the numerous state agencies with programs that affect the coast.

Texas Water Development Board—S.B. 660

by Senators Hinojosa and Hegar—House Sponsor: Representative Ritter

The purpose of this bill is to enact the recommendations of the Sunset Advisory Commission regarding the Texas Water Development Board (TWDB). TWDB was created in 1957 through a state constitutional amendment that authorizes TWDB to issue general obligation water development bonds to provide financial assistance to political subdivisions. To address the state's water needs, TWDB provides loans and grants through state and federal programs to Texas communities for water and wastewater projects, supports the development of regional water plans and prepares the State Water Plan, and collects, analyzes, and disseminates water-related data.

SAC does not address the continuation of the agency because TWDB is not subject to abolishment under the Sunset Act. This bill:

Clarifies current practice whereby the TWDB's Development Fund bonds that have been authorized, but not issued, are not considered state debt payable from the General Revenue Fund for purposes of calculating the constitutional debt limit, unless the legislature appropriates funds for debt service on the bonds.

Clarifies the role of the Bond Review Board in approving bond issues, and provides a process for reclassification of bonds payable from general revenue if the bonds are backed by payment from another source, or if TWDB demonstrates that the bonds no longer require payment from general revenue.

Authorizes TWDB to request that the attorney general take legal action, including receivership, to compel a financial assistance program recipient to cure a default in payment, a breach of terms of a financing agreement, or other failure to perform an obligation.

Ensures that TWDB has full statutory authority across all funding programs to request the attorney general to compel borrowers to perform specific duties legally required of them in documents such as bond covenants and loan and grant agreements.

Adds a representative of each groundwater management area that overlaps with a regional water planning group as a voting member of that regional water planning group.

Requires the groundwater management area representative to come from a groundwater conservation district that overlaps with the regional water planning group.

Requires regional water planning groups to use the desired future conditions (DFCs) in place at the time of adoption of the State Water Plan in the subsequent regional water planning cycle.

Authorizes groundwater management areas to make changes to their DFC, if they choose, by a certain date, with assurance that the new modeled available groundwater number will be used in the next regional and state water plan adopted by TWDB.

Provides that DFCs adopted at any point before January 5, 2012, will be used in the water planning cycle resulting in the 2017 State Water Plan.

Requires representatives of each groundwater conservation district (districts) located wholly or partially in each groundwater management area to convene at least annually to conduct joint planning and to review proposals to adopt new or amend existing DFCs every five years.

Strengthens the public notice and posting requirements for joint meetings in groundwater management areas and for district hearings before adopting desired future conditions.

Requires districts to consider certain factors in developing DFCs aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another; water supply needs and water management strategies included in the State Water Plan; hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge; other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water; one impact on subsidence; socioeconomic impacts reasonably expected to occur; impact on the interests and rights in private property, including the ownership of groundwater; one feasibility of achieving the desired future condition; and any other information relevant to the specific desired future conditions.

Requires districts to balance the highest practicable level of groundwater production with the conservation, preservation, protection, recharge, and prevention of waste of groundwater and control of subsidence in the management area.

Requires that proposed DFCs obtain support from two-thirds of all districts in a management area before being submitted to individual districts for consideration.

Requires that, before districts reconvene in a joint meeting to formally adopt a DFC, a public comment period of not less than 90 days be provided, during which time each individual district must conduct a public hearing on any proposed DFC relevant to that district and make a copy of the proposed DFC and any supporting materials available to the public in the district's office.

Requires each district to prepare a summary of relevant public comments and suggested revisions to proposed DFCs for consideration at the next joint planning meeting.

Requires TWDB's executive administrator to designate the director of the Texas Natural Resources Information System (TNRIS) as the state geographic Information officer and sets forth the officer's duties regarding coordinating and advancing geographic information systems initiatives.

Requires TWDB to submit a report at least once every five years to the governor, lieutenant governor, and speaker of the house of representatives regarding geographic data needs and initiatives.

Abolishes the Texas Geographic Information Council, as its functions are either no longer needed or already performed by TWDB through TNRIS.

Requires TWDB, as part of the State Water Plan, to evaluate the state's progress in meeting its water needs by evaluating the extent to which water management strategies and projects implemented since the last State Water Plan have affected that progress.

Requires TWDB to continue its analysis of how many implemented State Water Plan projects received its financial assistance, and include that analysis in the State Water Plan.

Requires TWDB and Texas Commission on Environmental Quality (TCEQ), in consultation with the Water Conservation Advisory Council, to develop consistent methodologies and guidance for municipalities and water utilities to use in calculating water use in water conservation plans and water conservation-related reports.

Requires TWDB to develop a uniform methodology for classifying water users within sectors and for calculating residential municipal water use in gallons per capita per day and uniform a method of calculating water be used in industrial, agricultural, commercial, and institutional sectors, in addition to the municipal sector.

Requires TWDB to submit a report to the legislature each odd-numbered year relating to statewide water usage in the sectors and data collection programs.

Specifies that data in these water conservation reports is not the only factor considered by TCEQ in determining the highest practicable level of water conservation and efficiency achievable for purposes of granting an application for an interbasin transfer.

Requires TWDB to maintain complaint information on all complaints, not just written complaints, and to provide information on its complaint procedures to the public.

Ensures that TWDB develops and implements a policy to encourage alternative procedures for rulemaking and dispute resolution.

Establishes a process for expediting claims and benefits for first responders employed by or volunteering for political subdivisions.

Continuation of Texas Board of Examiners for Speech-Language Pathology and Audiology—S.B. 662

by Senators Nichols and Hegar—House Sponsor: Representative Anchia

The Texas Board of Examiners for Speech-Language Pathology and Audiology (TBESLPA) regulates speech-language pathologists (SLPs) and audiologists in Texas. SLPs evaluate and treat disorders related to communication, language, and swallowing. Audiologists evaluate and treat ailments related to hearing functions, including the fitting and dispensing of hearing instruments, commonly known as hearing aids.

TBESLPA is administratively attached to DSHS, housed within its Professional Licensing and Certification Unit.

TBESLPA is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. SAC found that there is a continuing need for the board, but found that several inconsistencies in the board's regulation of hearing aid sales, and identified several changes that would enhance efficiency, fairness, and public protection of the board's operations. This bill:

Changes TBESLPA's Sunset date to September 1, 2017.

Provides limitations on the board's public membership, including prohibiting person from being a member of the board if the person is registered, certified, or licensed in the field of health care; receives money from the board or DSHS; owns, controls or has a direct or indirect interest of more than 10 percent in a business entity that provides health care services; sells, manufactures or distributes health care supplies or equipment; or receives a substantial amount of tangible goods, services, or money from the board or DSHS other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Prohibits a person from being a member of TBESLPA if the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

Requires the governor to designate a member of the board as presiding officer of TBESLPA to serve in that capacity at the will of the governor.

Sets forth grounds for removal from TBESLPA.

Requires TBESLPA members to undergo certain training and authorizes reimbursements for travel expenses incurred in attending the training program.

Requires TBESLPA and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments to jointly develop rules and adopt rules for hearing aid sales.

Requires the rules to address the information required in written contracts and the records that must be retained for hearing aid sales.

Requires that fingerprint criminal background checks be conducted on all licensees.

Authorizes TBESLPA to require a license to issue a refund to a hearing aid consumer according to the terms of the 30-day trial period policy.

Authorizes TBESLPA to exercise "cease-and-desist" the authority for unlicensed practice of speech-language pathology and audiology.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments—S.B. 663

by Senators Nichols and Hegar—House Sponsor: Representative Anchia

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) regulates fitters and dispensers of hearing instruments who measure human hearing for the purposes of selecting, adapting, or selling hearing aids. The committee is administratively attached to DSHS, housed within its Professional Licensing and Certification Unit.

The committee's mission is to protect and promote public health by designing and enforcing licensure rules and regulations for fitters and dispensers of hearing instruments. To achieve its mission, the committee develops and updates standards of practice for the fitting and dispensing of hearing instruments; administers a written and practical exam for licensure; issues and renews licenses and permits to qualified individuals; and receives and investigates complaints concerning licensees and takes disciplinary action against individuals who violate the committee's statute or rules.

The committee is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. As a result of its review of the committee, SAC recommended continuation of the committee, and several statutory modifications contained in this legislation to improve the committee's licensing practices and consistency of its operations. This bill:

Continues the committee within DSHS until September 1, 2017.

Reduces the number of continuing education hours a license holder must complete from 20 hours each year to 20 hours every two years and makes conforming changes throughout the bill to reflect this change.

Requires the committee to allow a license holder to obtain at least 10 hours of the required 20 hours of continuing education online, in a single reporting period.

Requires the committee to adopt rules to establish reasonable requirements for continuing education sponsors and courses, and to clearly define what constitutes a manufacturer or non-manufacturer sponsor.

Requires DSHS to review and approve continuing education sponsor and course applications, and allows DSHS to request assistance from licensed members of the committee.

Transfers certain administrative functions related to continuing education from the committee to DSHS, including requiring DSHS to provide the list of approved continuing education sponsors and continuing education courses.

Authorizes the inclusion of online courses on the preceding list.

Requires the committee and TBESLP, with assistance from DSHS, to jointly adopt rules for each hearing instrument sale.

Removes the statutory requirement that a hearing instrument fitter and dispenser licensed in another state applying for a Texas license provide affirmation that he or she is a Texas resident as part of the licensure application.

Transfers responsibility for reviewing and approving all out-of-state applications for licensure and administrative functions related to this responsibility from the committee to DSHS.

Clarifies that the committee is required to develop and maintain an examination and specifies that the examination may include written, oral, or practical tests.

Requires that DSHS administer or arrange for the administration of the practical examination.

Requires the practical examination be administered by one or more qualified proctors selected and assigned by DSHS.

Requires the rules to specify the number of years a proctor must be licensed as a hearing instrument fitter and dispenser, and the disciplinary or other actions that disqualify a person from serving as a proctor.

Requires applicants for licensure and license renewal to submit their fingerprints to the committee or DPS to obtain criminal history record information from DPS, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

Prohibits the committee from issuing a license or a license renewal to a person who does not comply with the preceding requirement.

Requires the committee to conduct fingerprint criminal history checks for licensure, and authorizes DSHS, on behalf of the committee, to enter into an agreement with DPS to administer a criminal history check.

Authorizes DPS to collect the costs incurred in conducting the criminal history check from each applicant.

Authorizes the committee to order a license holder to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period.

Requires the committee, by rule, to adopt procedures governing informal proceedings and informal settlement conferences.

Authorizes the committee, after notice and opportunity for a hearing, to issue a cease and desist order for unlicensed practice of hearing instrument fitting and dispensing, and provides that a violation of such an order is grounds for imposing an administrative penalty.

Prohibits a person from being appointed as a public member to the committee if the person or person's spouse has financial ties to the committee, DSHS, or the healthcare industry.

Prohibits a person from serving as a committee member if the person, or the person's spouse, is an officer, employee, or paid consultant of a trade association in the field of hearing instrument fitting and dispensing.

Requires the governor to designate the committee's presiding officer.

Requires members of the committee to complete training before assuming their duties, generally prescribes the information the training is to provide, and entitles committee members to reimbursement for travel expenses incurred in attending the training.

Texas Department of Transportation—S.B. 1420

by Senator Hinojosa et al.—House Sponsor: Representative Harper-Brown et al.

The predecessor to the Texas Department of Transportation (TxDOT), the Texas Highway Department, was created in 1917 to direct county road construction programs. Since then, TxDOT's mission has evolved to delivering a 21st century transportation system by providing safe, efficient, and effective means for the movement of people and goods throughout the state.

TxDOT is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature.

SAC concluded that TxDOT has worked to address many of the previous recommendations, but determined that more time is needed to judge the depth and effect of the changes before trust and confidence in TxDOT is fully restored. This bill:

Requires the recommendations and information submitted by Texas Parks and Wildlife Department (TPWD) regarding protecting the wildlife in response to a request for comments from TxDOT regarding a project to be submitted not later than the 45th day after the date TPWD receives the request.

Requires Texas Transportation Commission (TTC) members to be appointed to reflect the geographic regions and population groups of this state, with one member to reside in a rural area and be a registered voter of a county with a population of less than 150,000.

Prohibits a member of the commission from accepting a contribution to a campaign for election to an elected office.

Provides that if a commissioner accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant.

Requires the chief financial officer of TxDOT to ensure that TxDOT financial activities are conducted in a transparent and reliable manner.

Requires the chief financial officer of TxDOT to certify each month that any state highway construction and maintenance contracts to be awarded by TxDOT during that month will not create a state liability.

Requires TTC to develop and implement a policy to encourage the use of negotiated rulemaking procedures for the adoption of TxDOT rules; and appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under TxDOT's jurisdiction.

Requires TxDOT staff to deliver its legislative appropriations request to TTC in an open meeting not later than the 30th day before the date TxDOT submits the legislative appropriations request to the Legislative Budget Board.

Continues TxDOT until September 1, 2015.

Requires TxDOT to submit with its agency report a complete and detailed financial audit conducted by an independent certified public accountant.

Prohibits a TTC or TxDOT employee from using TxDOT funds to engage in an activity to influence the passage or defeat of legislation.

Makes such use of money a violation and grounds for dismissal of an employee.

Prohibits TxDOT from spending funds appropriated to the agency for lobbying, unless that expenditure is allowed under state law.

Requires each TxDOT employee to annually affirm the employee's adherence to a certain ethics policy.

Requires TxDOT to establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy.

Requires a person who acts as general counsel to TxDOT to be licensed as an attorney in this state.

Requires TTC, if an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer or division or office director, to consider whether the employee should be terminated.

Establishes a compliance office that will ensure that ethics violations do not occur and will provide investigations and work with law enforcement on such investigations if necessary.

Provides that the operation of TxDOT's compliance program does not preempt the authority of the state auditor to conduct an audit or investigation.

Requires TxDOT, not later than January 1, 2013, to submit a report to the legislature on the effectiveness of the compliance program and any recommended changes in law to increase the effectiveness of the compliance program.

Requires TxDOT to develop a statewide transportation plan covering a period of 24 years that contains all modes of transportation and requires the plan to contain specific information.

Requires that the plan be updated every four years.

Streamlines the environmental review process.

Specifies the period during which the reviewing agency must review the highway project and provide comments to TxDOT, as negotiated by TxDOT and the agency but which may not exceed 45 days after the date the agency receives a request for comments from TxDOT.

Requires TxDOT to collaborate with metropolitan planning organizations to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the statewide transportation plan.

Authorizes a local government sponsor or TxDOT to prepare an environmental review document for a highway project only if the highway project is identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or identified by TTC as being eligible for participation.

Authorizes a local government sponsor to prepare an environmental review document for a highway project that is not identified by TTC or in an approved state transportation improvement program if the sponsor submits with its notice a fee in an amount established by TTC rule, but not to exceed the actual cost of reviewing the environmental review document.

Authorizes TxDOT to decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if TxDOT sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by TxDOT to be missing from the document.

Requires TxDOT to undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.
Sets forth environmental review deadlines.

Sets forth TxDOT reporting requirements to the legislature regarding projects.

Requires TxDOT to post copies of project status reports on its Internet website and to provide a copy of the report to each member of the legislature who has at least one project covered by the report in the member's district.

Sets forth TxDOT's complaint process and the resolution process for those complaints.

Requires TxDOT to develop a standard form for submitting a complaint and make the form available on its Internet website and allow it to be submitted electronically.

Establishes a TxDOT project information reporting system that will be available on TxDOT's website.

Requires TxDOT to develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan.

Requires TxDOT to establish a transportation expenditure reporting system that makes available in a central location on TxDOT's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

Requires TxDOT to establish criteria to prioritize the transportation needs for the state that are consistent with the statewide transportation plan.

Requires each TxDOT district to enter information into the transportation expenditure reporting system, including information about each district transportation project, and the category to which the project has been assigned and the priority of the project.

Requires TxDOT to annually evaluate and publish a report about the status of each transportation goal for this state and provide a copy of the district report to each member of the legislature for each TxDOT district located in the member's legislative district, and at the request of a member, a TxDOT employee to meet with the member to explain the report.

Requires TxDOT to develop and implement a policy for public involvement that guides and encourages public involvement with TxDOT.

Requires TxDOT to develop a unified transportation program covering a period of 10 years, which will be updated annually, to guide the development of and authorize construction of transportation projects and to publish it on TxDOT's website.

Requires TxDOT to annually develop and publish a forecast of all funds TxDOT expects to receive, including funds from this state and the federal government, and use that forecast to guide planning for the unified transportation program.

Requires TTC by rule to establish criteria for designating a project as a major transportation project; develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project; and determine which critical benchmarks must be met before a major transportation project may enter the implementation phase of the unified transportation program.

Requires TTC by rule to establish categories in the unified transportation program, assign each project identified in the program to a category, and designate the priority ranking of each project within each category.

Sets forth the funding formulas for allocating funds to TxDOT districts and metropolitan planning organizations for transportation projects.

Requires TTC to update the formulas at least every four years.

Establishes a TxDOT work program that contains all projects that the district proposes to implement during a four year period.

Authorizes TxDOT, a county, a regional tollway authority, or a regional mobility authority to enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for transportation projects.

Requires TxDOT to by rule to establish a process to certify TxDOT's district environmental specialists to work on all documents related to state and federal environmental review processes.

Requires all or the portion specified by the municipality of the money deposited to a tax increment account to be used to fund the transportation project for which the transportation reinvestment zone was designated, as well as aesthetic improvements within the zone and any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality.

Authorizes a municipality to issue bonds to pay all or part of the cost of the transportation project and to pledge and assign all or a specified amount of money in the tax increment account to secure repayment of those bonds.

Sets forth the designation of an area as a transportation reinvestment zone and requirements related to such zones.

Provides that in the event a county collects a tax increment, it may issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds.

Requires TTC by rule to determine the most effective method for providing the notice of bids on contracts.

Expands authority for comprehensive development agreements (CDAs) specifically related to: Grand Parkway (SH 99) in Harris County.; US 290-Hempstead managed lanes project in Harris County.; SH 249 in Harris and Montgomery Counties; SH 288 in Harris and Brazoria Counties; SH 183 managed lanes project in Dallas County; I-35 E managed lanes project in Dallas and Denton counties; and the North Tarrant Express project in Tarrant and Dallas counties.

Authorizes CDA projects for RMAs or TxDOT for Loop 1 (MOPAC) from FM 734 to Cesar Chavez; US 183 (Bergstrom Expressway) from Springdale Road to Patton Avenue; US 77/83 to FM 1847; and South Padre Island Second Access Causeway from SH 100 to Park Road 100.

Authorizes TxDOT to use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

Authorizes TxDOT to enter into a design-build contract for a highway project with a construction cost estimate of \$50 million or more to TxDOT.

Prohibits a private entity from having a leasehold interest in the highway project or the right to operate or retain revenue from the operation of a transportation project.

Sets forth the requirements and procedures that TxDOT and a design-build contractor must follow in using the design-build method.

Requires TxDOT to hold money in a subaccount in trust for the benefit of the region in which a project or system is located and authorizes TxDOT to assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located for projects approved by the agency.

Establishes a committee with representatives from TxDOT, the local toll project entity, the metropolitan planning organization, and county for a TxDOT toll project with private entity involvement to determine the distribution of a project's risk, method of financing, and tolling structure/methodology.

Authorizes a regional mobility authority (RMA) to use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project with limitations and to adhere to certain requirements.

Authorizes an RMA to enter into not more than two design-build contracts for transportation projects in any fiscal year.

Requires TxDOT, by rule, to develop a complaints process and procedures for tracking and reporting outdoor advertising complaints, and to provide information to the public about how to file a complaint.

Provides that a person commits an offense if the person willfully erects or maintains an off-premise sign on a rural road without a license and provides that an offense is punishable by a misdemeanor and a fine of not less than \$500 or more than \$1,000. Provides that each day of the proscribed conduct is a separate offense.

Sets forth the off-premise signs licensing regulations, fees, and required surety bond.

Authorizes TTC to revoke or suspend an off-premise sign license or place on probation a license holder whose license is suspended if the license holder violates the law or a rule.

Authorizes TxDOT, if the suspension of the license is probated, to require the license holder to report regularly to TTC on any matter that is the basis of the probation.

Sets forth the appeals process for denied sign permits by eliminating the Board of Variance for hearing appeals of rural road sign permit denials.

Requires TxDOT in cooperation with local governments to actively manage a system of changeable message signs located on highways under the jurisdiction of the department to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

Transfers regulation of oversize and overweight vehicles from TxDOT to the Department of Motor Vehicles (DMV) no later than January 1, 2012, with TxDOT retaining a consulting and supporting function.

Constitutional Amendment Relating to Texas Water Development Board Bonds—S.J.R. 4

by Senator Hinojosa et al.—House Sponsor: Representative Ritter

The Texas Water Development Board (TWDB) functions primarily as a financing entity, banking water infrastructure projects for a variety of political subdivisions. TWDB's current bonding capacity is not sufficient to meet the needs of local governments that are upgrading infrastructure to meet growing demand associated with a larger consumer base. TWDB has an excellent record of managing large bond portfolios without any defaults. TWDB has had no defaults in the history of its Water/Wastewater Loan Program or State Revolving Fund programs. TWDB bonds consistently receive AAA ratings and have outperformed the state's bond ratings. This bill:

Authorizes TWDB, in addition to the bonds authorized by the other provisions of Article III, Texas Constitution, to issue general obligation bonds, at its determination and on a continuing basis, for one or more accounts of the Texas

Water Development Fund II in amounts such that the aggregate principal amount of the bonds issued by TWDB that are outstanding at any time does not exceed \$6 billion.

Provides that Section 49-d-8 (Texas Water Development Fund II), Article III, Texas Constitution, applies to the bonds authorized by Section 49-d-8. Provides that the limitation in Section 49-d-8 that TWDB may not issue bonds in excess of the aggregate principal amount of previously authorized bonds does not apply to the bonds authorized by and issued under Section 49-d-8.

Provides that a limitation on the percentage of state participation in any single project imposed by this article does not apply to a project funded with the proceeds of bonds issued under the authority of this section or Section 49-d-8.

Collection of Local Sales Tax for the City of El Paso at Fort Bliss—H.B. 205

by Representative Pickett—Senate Sponsor: Senator Rodriguez

Most retail businesses located on the Fort Bliss United States Army post in El Paso have been collecting sales tax at the rate of 8.25 percent, a rate comprising the state sales tax rate of 6.25 percent and a local sales tax rate of two percent. One percent of the local sales tax rate is for El Paso County and one percent is for the City of El Paso. When the City of El Paso created a transportation reinvestment zone under state law, it was discovered that Fort Bliss was not within the city limits, even though the city surrounds the base. While it is not uncommon to find situations in Texas where larger municipalities have grown around smaller municipalities, this case is unusual because it involves a military base. The comptroller of public accounts (comptroller) subsequently reevaluated the sales tax permits held by retailers located on Fort Bliss and instructed the retailers to collect the state sales tax and the local sales tax only for El Paso County. This bill:

Amends Section 453.051, Transportation Code, by adding Subsection (c) to provide 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.

Provides that Section 453.051, Transportation Code, applies only to a municipality with a population of more than 500,000 that borders the United Mexican States.

Provides that for purposes of the sales and use tax imposed under Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, a reference in this chapter or other law to the municipality as the territory in which the tax or an incident of the tax applies includes the area within the boundaries of a federal military installation that is located in the municipality's extraterritorial jurisdiction.

Application and Eligibility for Residence Homestead Exemptions—H.B. 252

by Representative Hilderbran—Senate Sponsor: Senator Estes

A homeowner may apply for homestead exemptions on the homeowner's principal residence. Homestead exemptions remove part of the home's value from taxation to lower the resident's taxes. A homestead is a separate structure, condominium, or a manufactured home located on owned or leased land, as long as the individual living in the home owns it. A homestead can include up to 20 acres, if the land is owned by the homeowner and used as a yard or for another purpose related to the residential use of the homestead. This bill:

Requires that an application for a residence homestead exemption prescribed by the comptroller of public accounts (comptroller) and authorized by Section 11.13 (Residence Homestead), Tax Code, in addition to the items required by Section 11.43(f) (relating to requiring the comptroller to provide all necessary criteria on the application), Tax Code, require the applicant to supply certain information.

Requires a copy of the applicant provide a copy of the applicant's driver's license or state-issued personal identification and a copy of the applicant's vehicle registration receipt to show that the homeowner resides at the residence in which they are receiving the exemption. Prohibits the chief appraiser from allowing an exemption if the two forms of identification do not correspond to the address listed.

Provides that for a manufactured home to qualify as a residence homestead under Section 11.13, the application for exemption required by Section 11.43 must be accompanied by certain documents. Provides that the land on which a manufactured home is located qualifies as a residence homestead under Section 11.13 only if it meets certain criteria.

Registration Numbers for Agricultural and Timber Tax Exemption Certificates—H.B. 268

by Representative Hilderbran—Senate Sponsor: Senator Seliger

Currently, in Texas, agricultural exemptions for sales and use tax are offered for qualified purchases. The purpose of agricultural exemptions is to reduce the cost of agriculture-related products to consumers. These exemptions are offered to all buyers purchasing qualified goods and/or services for qualified purposes. Sellers of these goods are required to determine exempt and non-exempt purchases and discern the use of the goods being purchased in order to accept the exemption request in good faith. The comptroller of public accounts (comptroller) holds the buyer and seller jointly responsible for the lawful use of agricultural exemptions. However, in practice, only the seller is held liable for non-qualified purchases. This creates an inherent conflict of interest between the buyer, the seller, and the comptroller. Over time, this conflict-of-interest has grown to include a substantial number of transactions between buyers and sellers that might not strictly fit the intent of the original law. This bill:

Requires that a registration number issued by the comptroller to claim an exemption to which Section 151.1551 (Registration Number Required for Timber and Certain Agricultural Items), Tax Code, applies, be stated on the exemption certificate provided by the purchaser of the item.

Provides that 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 14 C.F.R. Section 137.3. Requires that the application for a registration number contain certain information.

Requires the comptroller by rule to establish a uniform date on which all registration numbers issued be renewed, regardless of the date on which a registration number is initially issued. Requires that the rules require registration numbers to be renewed every four years. Requires the comptroller by rule to establish procedures by which a seller may accept a blanket exemption certificate with a registration number issued by the comptroller to claim exemptions to which Section 151.1551 applies.

Authorizes the comptroller, after written notice and a hearing, to revoke the registration number issued to a person who fails to comply with Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, or with a rule adopted under Chapter 151. Entitles a person whose registration number the comptroller proposes to revoke under Section 151.1551 to 20 days' written notice of the time and place of the hearing on the revocation. Requires that the notice state the reason the comptroller is seeking to revoke the person's registration number. Requires the person, at the hearing, to show cause why the person's registration number should not be revoked.

Requires the comptroller to develop and operate an online system to enable a seller of an item or property to search and verify the validity of the registration number stated on an exemption certificate. Provides that a seller is not required to use the online system.

Reenacts Section 151.316(a), Tax Code, as amended by Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st Legislature, Regular Session, 2009, and amends it to provide that, subject to Section 151.1551, certain items as set forth are exempted from the taxes imposed by Chapter 151, Tax Code.

Agricultural Appraisal Advisory Board Membership Requirements—H.B. 361

by Representative Otto—Senate Sponsor: Senator Seliger

Current law requires that at least one of the members of an agricultural appraisal review board be a representative of the county agricultural stabilization and conservation service. The county agricultural stabilization service has been renamed the National Resources Conservation Service (NRCS), a federal agency within the United States Department of Agriculture (USDA). The USDA will not allow members of the NRCS to serve on a Texas agricultural appraisal advisory board due to potential conflicts of interest. This bill:

Deletes text in Section 6.12(b), Tax Code, requiring that one of the members of an agricultural appraisal review board be a representative of the county agricultural stabilization service.

Requires that an agricultural appraisal review board meet at the call of the chief appraiser at least once a year, rather than meeting at the call of the chief appraiser at least three times a year.

Additional Penalty for Certain Delinquent Ad Valorem Taxes—H.B. 499

by Representative Eddie Rodriguez—Senate Sponsor: Senator Watson

Under current law, taxes generally become delinquent if they are not paid before February 1 of the year following the year for which the tax was imposed. On July 1, a taxing unit may add to the taxes, as a collection cost, penalty and interest on taxes that remain delinquent on that date if the tax collector gives notice of the impending cost to the taxpayer in May. However, there are exceptions to the February 1 delinquency date in that, under certain special circumstances, some taxes become delinquent too late for the taxpayer to receive the notice in May. A statutory provision was enacted to address these delayed delinquencies to provide an alternate notice procedure. This bill:

Authorizes the governing body of a taxing entity or appraisal district to provide that taxes that become delinquent on or after June 1 under Sections 26.07(f) (relating to requiring the tax assessor to prepare and mail corrected tax bills), 26.15(e) (relating to requiring the tax assessor to prepare and mail a supplemental tax bill in the manner provided by Chapter 31 of this code for tax bills generally), 31.03 (Split Payment of Taxes), 31.031 (Installment Payments of Certain Homestead Taxes), 31.032 (Installment Payments of Taxes on Property In Disaster Area), 31.04 (Postponement of Delinquency Date), or 42.42 (Corrected and Supplemental Tax Bills), Tax Code, incur an additional penalty to defray costs of collection.

Appeals Process to Dispute Reallocation of Sales Tax Revenue—H.B. 590

by Representative Thompson—Senate Sponsor: Senator Patrick

Under current law there is no process for appealing the reallocation of sales tax dollars from one governmental entity to another, placing a burden on an entity that faces the possibility of having to pay back sales taxes that may have been rightfully allocated to it but that it may have already spent. Certain entities requested a remedy to this problem through an appeals process to dispute possible reallocation of sales tax revenue action by the comptroller. This bill:

Provides that Section 321.510 (Reallocation of Municipal or Local Governmental Entity Tax Revenue) and Section 323.510 (Reallocation of County or Local Governmental Entity Tax Revenue), Tax Code, apply only if the comptroller: reallocates local tax revenue from a municipality or local governmental entity to another municipality or local governmental entity or refunds local tax revenue that was previously allocated to a municipality or local governmental entity; and the amount the comptroller reallocates or refunds is at least equal to the lesser of \$200,000, an amount equal to 10 percent of the revenue received by the municipality or local governmental entity under this chapter during the calendar year preceding the calendar year in which the reallocation or refund is made, or an amount that increases or decreases the amount of revenue the municipality or local governmental entity receives under this chapter during a calendar month by more than 15 percent as compared to revenue received by the municipality or local governmental entity during the same month in any previous year.

Authorizes a municipality or local governmental entity, subject to the criteria provided by Section 321.510, Tax Code, to request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the municipality or local governmental entity that are included and identified by the municipality or local governmental entity from the information received from the comptroller under Section 321.3022 (Tax Information), Tax Code, and that relate to a reallocation or refund in an amount described by

Section 321.510(b) and Section 323.510(b). Requires the request to be submitted not later than the 90th day after the date the municipality or local governmental entity discovers a reallocation or refund.

Authorizes the comptroller to set and collect from a municipality or local governmental entity a reasonable fee to cover the expense of compiling and providing information under Section 321.510(b) and Section 323.510(b).

Provides that the provision of confidential information to a county or local governmental entity does not affect the confidential nature of the information in the returns or reports. Requires a county or local governmental entity to use the information only in a manner that maintains the confidential nature of the information and prohibits the county or local governmental entity from disclosing or releasing the information to the public.

Information Required for an Exemption From Ad Valorem Taxation—H.B. 645

by Representatives Orr and White—Senate Sponsor: Senator Patrick

Current law requires an applicant for a property tax exemption to provide the applicant's driver's license, personal identification certificate, or Social Security number, in addition to the person's name, on the application form. When the application is for a tax exemption for a charitable organization, providing an individual's personal information is misleading and unnecessary. This bill:

Authorizes certain applicants for a property tax exemption for an organization 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.

Report on County and Municipality Tax Revenue—H.B. 654

by Representative Solomons—Senate Sponsor: Senator Shapiro

Under current law, certain sales tax data and other revenues that are organized by city, county, or metropolitan statistical area can be viewed on the website of the comptroller. However, other revenues remitted to the comptroller by municipalities and counties can only be viewed by the public according to the total amount collected by the state, instead of the amount remitted by each municipality and county. This bill:

Requires the comptroller, before each regular session of the legislature, to report to the legislature and the governor on the 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. Authorizes the report to be included in any other report made by the comptroller.

Requires the comptroller to report the information as an aggregate total for each tax without disclosing individual tax payments or taxpayers.

Requires the comptroller to publish the report on the comptroller's Internet website not later than the 20th day after the date the report is provided to the legislature and the governor.

Appraisal of Property to be Purchased With Bond Proceeds—H.B. 782

by Representative Yvonne Davis—Senate Sponsor: Senator Wentworth

Currently, a municipality or Type B corporation is not required to obtain an independent appraisal of a property's market value prior to purchasing the property with bond proceeds. Concerns have been expressed that the price of property acquired with public funds is not being monitored. This bill:

Prohibits a municipality or a Type B corporation from purchasing a property with funds generated from bond proceeds unless an independent appraisal of the property's market value has been obtained.

Electronic Delivery of Ad Valorem Tax Bills—H.B. 843

by Representatives Geren and Garza—Senate Sponsor: Senator Davis

Current law requires a tax assessor to prepare and mail property tax bills each year to property owners and their agents, state agencies and institutions, and mortgagees of a property. This bill:

Authorizes a tax office to offer a paperless, electronic tax bill to a taxpayer who has opted to receive this bill through such means. Provides requirements regarding the format and method of delivery for an electronic tax bill.

Auxiliary Members of an Appraisal Review Board—H.B. 896

by Representative Charlie Howard—Senate Sponsor: Senator Patrick

Under current law, the board of directors of an appraisal review board lacks the authority to appoint auxiliary board members to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties. This bill:

Authorizes 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.

Sets forth requirements relating to the appointment, term, attendance, duties, and compensation of an auxiliary board member of an appraisal review board.

Tax Collector's Affidavit for Property Sold in a Liquidation Sale—H.B. 930

by Representative Darby—Senate Sponsor: Senator Harris

The Texas Legislature recently amended state tax law to authorize a tax collector to summarily seize a person's personal property under court order for the purpose of securing payment of taxes on that property before the taxes become delinquent if the tax collector has reason to believe that the property is about to be either removed from the county or sold in a liquidation sale in connection with the cessation of business. Facts in support of a seizure must be supported by the tax collector's affidavit before a court may issue the necessary tax warrant for seizure. However, the legislation authorizing such seizure of property did not make the necessary conforming changes to provisions regarding such affidavit to account for a case where property is about to be sold in a liquidation sale. This bill:

Amends Section 33.22(c), Tax Code, to require the court to issue the tax warrant if the applicant shows by affidavit certain information, including that taxes in a stated amount have been imposed on the property or taxes in an estimated amount will be imposed on the property, 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 that the property owner is about to remove the property from the county, or the property is about to be sold at a liquidation sale in connection with the cessation of a business.

Hotel Occupancy Taxes in Certain Municipalities—H.B. 970

by Representatives Larry Gonzales and Schwertner—Senate Sponsor: Senator Ogden

H.B. 970 facilitates the economic development efforts of the City of Round Rock to use the municipal hotel occupancy tax for capital improvements to and the operation and maintenance of a coliseum or multiuse facility and the economic development efforts of the City of Amarillo to use municipal hotel occupancy tax revenue for a multipurpose facility or for other tourism-related purposes. This bill:

Authorizes revenue from the municipal hotel occupancy tax to be used only to promote tourism and the convention and hotel industry, and provides that that use is limited to, among other things, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality has a population of at least 90,000 but less than 120,000 and 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 construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue that is related to the promotion of tourism.

Hotel Occupancy Taxes in Crane County—H.B. 1033

by Representative Craddick—Senate Sponsor: Senator Seliger

Current law grants various counties the authority to impose a county hotel occupancy tax, but Crane County is currently not authorized to impose such a hotel occupancy tax and cannot access a source of local revenue that is available to other counties. This bill:

Authorizes 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 hotel occupancy tax.

Provides that the hotel occupancy tax does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel.

Calculation of Interest on Certain Ad Valorem Tax Refunds—H.B. 1090

by Representative Naomi Gonzalez et al.—Senate Sponsors: Senators Seliger and Eltife

Under current law, when a property owner engages in litigation with an appraisal district over the value or exemption of the property, the property owner is required to pay the undisputed amount of the taxes at issue, but may pay the full tax bill as originally assessed. Once the litigation is resolved, if the owner ends up owing less taxes than were paid, the property owner gets a refund from the taxing units such as school districts, counties, and cities, with interest. In 1997 the interest on most refunds was fixed at eight percent, when eight percent interest was reasonable.

An eight percent interest rate is now well above market rates and no taxing unit can hope to invest any money that it might have to refund at anything close to an eight percent return. This bill:

Requires that the interest rate paid on refunds after any litigation to be calculated at an annual rate that is two percent, plus the most recent prime rate quoted and published by the Federal Reserve Board, but no more than eight percent calculated from the delinquency date for the taxes until the date the refund is made.

Resale of Property Purchased by a Taxing Unit at a Tax Sale—H.B. 1118

by Representatives Ritter and Deshotel—Senate Sponsor: Senator Huffman

In foreclosing property for delinquent taxes, taxing units must on occasion bid the property at a tax sale when there are no bids received from the public at the auction. The taxing units are then charged with reselling the property in an effort to recover the taxes awarded to them by the underlying judgment. Once the property is actually bid out by the taxing units, the property is exempt from taxation until the taxing units resell the property. While a resale by the taxing units to a purchaser will discharge and extinguish the liens for taxes in the judgment, the post-judgment taxes remain as a lien against the property, thereby serving as an impediment in reselling the property. This bill:

Authorizes a taxing unit to sell tax foreclosed properties being held for resale, but which they cannot market due to the post-judgment liens at a private sale for an amount equal to or greater than its market value, as shown by the most recent certified appraisal roll.

Provides that such a sale discharges and extinguishes all liens foreclosed by the judgment with certain exceptions and the property becomes subject to taxation once again and produces revenue each year for the taxing units.

Provides that a taxing unit that does not consent to a sale is liable to the taxing unit that purchased the property for a pro rata share of the costs incurred by the purchasing unit in maintaining the property.

Hotel Occupancy Taxes in Gillespie County and Kendall County—H.B. 1234

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

According to the 2010 census, the population of Gillespie County and Kendall County grew beyond the parameters that are set forth in the statute that established the counties' taxing authority. Because those counties no longer meet some of the requirements on which their authorization to impose a county hotel occupancy tax was based, they cannot continue collecting the tax without a revision of that statutory authority. This bill:

Authorizes the commissioners court of certain counties, including a county through which the Pedernales River flows and in which the birthplace of a president of the United States is located, by the adoption of an order or resolution to impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping.

Authorizes 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 hotel occupancy tax.

Provides that a hotel occupancy tax imposed does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel.

Hotel Occupancy Tax Revenue in Certain Municipalities—H.B. 1315

by Representative Aliseda—Senate Sponsor: Senator Zaffirini

Certain counties and municipalities are currently authorized to impose a municipal hotel occupancy tax for, among other uses, promoting tourism. The provisions of H.B. 1315 relate to hotel occupancy taxes in the municipalities of Jourdanton, Fairview, Tyler, and Longview. This bill:

Applies only to 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.

Authorizes a municipality to, notwithstanding any other provisions, use all or any portion of the revenue derived from the municipal hotel occupancy tax for a business recruitment project to substantially enhance hotel activity and encourage tourism; and the construction, enlarging, equipping, improvement, maintenance, repairing and operation of a recreational facility to substantially enhance hotel activity and encourage tourism.

Prohibits the 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 from exceeding nine percent of the price paid for a room and requires the municipality to allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

Prohibits the rate in a municipality that has a population of at least 80,000 and is partly located in a county that borders the State of Louisiana and has a population of at least 60,000 from exceeding nine percent of the price paid for a room and requires the municipality to allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

Use of Hotel Taxes for Sports Facilities in Certain Municipalities—H.B. 1690

by Representative Flynn—Senate Sponsor: Senator Deuell

H.B. 1690 amends current law relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade sports facilities in certain municipalities. This bill:

Authorizes revenue from the municipal hotel occupancy tax to be used to promote tourism and the convention and hotel industry, and provides that that the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football are methods of promoting tourism.

Provides population brackets to grant this authority to certain municipalities.

Taxability of Internet Hosting—H.B. 1841

by Representatives Hartnett and Hilderbran—Senate Sponsor: Senator Carona

A company with a "nexus," or physical presence, in Texas that makes sales in Texas is required to collect sales tax from its customers and remit that tax to the state. A United States Supreme Court ruling in the early 1990s affirmed a previous ruling that prohibited states from compelling out-of-state companies to collect sales tax in violation of the United States Constitution's commerce clause. A "substantial nexus," such as owning a building or employing sales staff in a state, is required before states can impose tax collection duties on out-of-state companies. In the late 1990s, an Internet tax policy working group convened by the comptroller of public accounts made certain recommendations to the state regarding the maintenance of a fair and competitive environment for electronic commerce. The group advised that the use of an Internet site, if hosted from a server located in Texas, should not constitute nexus. Despite that conclusion, interested parties contend that the state's commitment to this nexus standard has been questioned, raising the concern that out-of-state companies will abandon Texas-based Internet hosting businesses out of fear that they will be required to collect or pay the state sales tax. Texas-based hosting companies currently pay substantial state sales tax on purchases of hardware, software, and electricity, but may be forced to scale back those purchases if customers choose to avoid Texas-based hosting sites. This bill:

Defines "Internet hosting."

Provides that a person whose only activity in this state is conducted as a user of Internet hosting is not engaged in business in this state.

Provides that a person providing Internet hosting is not required to examine a user's data to determine the applicability of Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, to a user, report to the comptroller of public accounts about a user's activities, or advise a user as to the applicability of Chapter 151, Tax Code.

Tax Administration and Procedures for Property Tax Protests and Appeals—H.B. 1887

by Representative Villarreal—Senate Sponsor: Senator Hinojosa

Interested parties contend that there are several procedural items relating to property tax protests and appeals that cost taxpayers and appraisal districts needless time and expense and can result in a taxpayer losing an appeal or protest on what amounts to a technicality. This bill:

Entitles an individual exempt from registration as a property tax consultant under Section 1152.002 (Exemptions From Registration), Occupations Code, who is not supervised, directed, or compensated by a person required to register as a property tax consultant and who files a protest with the appraisal review board on behalf of the property owner to receive all notices from the appraisal district and appraisal review board regarding the property subject to the protest until the authority is revoked by the property owner. Requires an individual who is not designated by the property owner to receive notices, tax bills, orders, and other communications as provided by Section 1.111(f) or Section 1.11 (Communications to Fiduciary), Tax Code, to file a statement with the protest that includes certain information.

Authorizes the comptroller to contract with service providers to assist with the duties imposed under Section 1.111(a) (relating to requiring the comptroller to perform certain actions in the training of appraisal review board members), Tax Code, but prohibits the course required from being provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. Requires that the curricula and materials include certain information. Authorizes the comptroller to contract with service providers to assist with the duties imposed. Prohibits certain persons, except during a hearing or other appraisal review board proceeding, from communicating with a member of an appraisal review board about a course provided or any matter presented or discussed during the course. Authorizes an appraisal review board to retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct the members of the appraisal review board on valuation methodology if the appraisal district provides for the instruction in the district's budget.

Provides that a chief appraiser or another employee of an appraisal district, a member of a board of directors of an appraisal district, or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board commits an offense if the person performs certain actions. Provides that Section 6.411 (Ex Parte Communications; Penalty), Tax Code, does not apply to communications involving the chief appraiser or another employee or a member of the board of directors of an appraisal district and a member of the appraisal review board in certain circumstances.

Authorizes an appraisal district to specify in its budget whether the appraisal review board is authorized to employ legal counsel or is required to use the services of the county attorney. Prohibits an attorney from serving as legal counsel for the appraisal review board under certain conditions.

Provides that the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) (relating to requiring the assessor for each affected taxing unit to prepare and

mail a supplemental tax bill), Tax Code, for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42 (Judicial Review), and that additional amount is not delinquent before that date. Provides that a property owner who pays an amount of taxes greater than that required does not forfeit the property owner's right to a final determination of the motion by making the payment.

Provides that a pendency of a protest does not affect the delinquency date for the taxes on the property subject to the protest. Provides that the delinquency date applies only to the amount of taxes required to be paid and that the delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing. Requires a property owner who files a protest under Section 41.411 to pay the amount of taxes due on the portion of the taxable value of the property subject to the protest that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the protest.

Authorizes a property owner, after filing an oath of inability to pay the taxes at issue, to be excused from the requirement of prepayment of tax as a prerequisite to the determination of a protest if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. Requires the board, on motion of a party, to hold a hearing to review and determine compliance, and authorizes the reviewing board to set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. Prohibits a notice of protest from being found to be untimely or insufficient based on a finding of incorrect ownership if the notice meets certain conditions.

Entitles a property owner to appeal certain orders, including an order of the appraisal review board determining certain issues, including a determination of an appraisal review board that the property owner has forfeited the right to a final determination of a motion filed under Section 25.25 or of a protest under Section 41.411 for failing to comply with the prepayment requirements of Section 25.26 or 41.4115, Tax Code, as applicable.

Entitles a person to intervene in an appeal brought under Chapter 42, Tax Code, and provides that the person has standing and the court has jurisdiction in the appeal if the property that is the subject of the appeal was also the subject of a protest hearing meets certain criteria. Requires the court, on a motion by a party to an appeal, to enter an order requiring the parties to attend mediation. Authorizes the court to enter an order requiring the parties to attend mediation on its own motion. Requires an attorney who accepts an engagement or compensation from a third party to represent a person in an appeal to provide notice containing certain information to the person represented.

Requires the attorney to mail the notice by certified mail to the person represented by the attorney not later than the 30th day after the date the attorney accepts the engagement from the third party. Authorizes a person to void an engagement that does not comply with Section 42.30 (Attorney Notice of Certain Engagements), Tax Code. Provides that an attorney who does not comply with Section 42.30 may be reported to the Office of Chief Disciplinary Counsel for the State Bar of Texas.

Mixed Beverage Gross Receipts Tax—H.B. 2033

by Representative Hamilton—Senate Sponsor: Senator Eltife

A mixed beverage gross receipts tax is imposed at a rate of 14 percent on mixed beverage and private club permit holders for all alcoholic beverages sold by the permittee. It is not imposed on or paid directly by the customer. The amount of tax imposed on an alcoholic beverage purchased by a consumer that is subject to the 14 percent mixed beverage tax is currently not disclosed on the consumer's receipt. Consequently, consumers are unaware of how much tax is remitted to the state by the permittee on such purchases. This bill:

Authorizes a permittee, 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 taxation include a separate statement disclosing the amount of tax to be paid by the permittee in relation to that item.

Requires that the separate statement clearly disclose the amount of tax payable by the permittee.

Prohibits the tax from being separately charged to or paid by the customer.

Delinquent Concurrent State Hotel Occupancy Taxes—H.B. 2048

by Representative Lyne—Senate Sponsor: Senator Deuell

Local governments have limited authority to audit and collect delinquent hotel occupancy taxes under their jurisdiction. When a municipality or county is made aware of a failure to collect the tax, file a tax report as required, or pay the tax when due, the municipality or county often will discover a corresponding tax delinquency by the same hotel operator or lodging provider with regard to the state hotel occupancy tax as well. However, a municipality or county currently has no incentive to share that information with the State of Texas. This 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 and interest and amounts paid under protest, derived from the collection of taxes imposed by Chapter 156 (Hotel Occupancy Tax), Tax Code, that resulted from documentation or other information described by Section 351.008 (Concurrent State Tax Delinquency) or 352.008 (Concurrent State Tax Delinquency), Tax Code; and 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.

Authorizes a municipality to directly perform an audit authorized by Sections 351.004 (Tax Collection), Tax Code, or contract with another person to perform the audit on an hourly rate or fixed-fee basis. Requires a municipality to provide at least 30 days' written notice to a person who is required to collect the tax imposed with respect to a hotel before conducting an audit of the hotel.

Requires a municipality, if, as a result of an audit conducted under Section 351.004, Tax Code, the municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, to notify and submit the relevant information to the comptroller. Requires the comptroller to review the information submitted by a municipality and determine whether to proceed with collection and enforcement efforts. Requires the comptroller, if the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, to distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 (Allocation of Revenue to Certain Municipalities and Counties) to defray the cost of the municipal audit.

Authorizes the county, if a person required to file a tax report under Chapter 352 (County Hotel Occupancy Taxes), Tax Code, does not file the report as required by the county, to determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. Authorizes a county to directly perform an audit authorized under Section 352.004(e), Tax Code, or contract with another person to perform the audit on an hourly rate or fixed-fee basis. Requires a county to provide at least 30 days' written notice to a person who is required to collect the tax imposed by Chapter 352, Tax Code, with respect to a hotel before conducting an audit of the hotel.

Requires a county, if, as a result of an audit conducted under Section 352.004, the county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by Chapters 352 and 156, Tax

Code, on a person who pays for the right to occupy a room or space in a hotel, to notify and submit the relevant information to the comptroller.

Requires the comptroller to review the information submitted by a county and determine whether to proceed with collection and enforcement efforts. Requires the comptroller, if the information results in the collection of a delinquent tax under Chapter 156, and the assessment has become administratively final, to distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

Maximum Bond Amounts for County Taxes—H.B. 2104

by Representative Jim Jackson—Senate Sponsor: Senator West

Under current law, the amount of a bond for county taxes given by the county assessor-collector is capped at \$100,000. To allow certain counties to set the maximum amount of such a bond in an amount greater than \$100,000, the Tax Code must be amended. This bill:

Sets the minimum amount of the bond for county taxes payable to the commissioners court of the county at \$2,500 and the maximum amount for such a bond at \$100,000, except as otherwise provided.

Authorizes the commissioners court of a county with a population of 1.5 million or more to by order set the maximum amount of the bond in an amount greater than \$100,000, as an exception to the existing \$100,000 ceiling for such a bond, and requires such a bond to be approved by the commissioners court to be effective.

Rescinding Discounts for Early Payment of Property Taxes—H.B. 2169

by Representative Aycock—Senate Sponsor: Senator Shapiro

There is concern that current law does not adequately address situations under which a taxing unit, such as a school district, wishes to rescind discounts for early payment of property taxes previously adopted by the taxing unit. This bill:

Authorizes the governing body of a taxing unit to rescind a discount adopted by the governing body in the manner required by law for official action by the body.

Provides that the rescission of a discount takes effect in the tax year following the year in which the discount is rescinded.

Pilot Program for Certain Appeals of Property Appraisals—H.B. 2203

by Representative Otto—Senate Sponsor: Senator Williams

In 2009, the 81st Legislature created a pilot program to allow the State Office of Administrative Hearings (SOAH) to hear certain appeals of property appraisals involving property valued at more than \$1 million. Qualifying property owners in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis counties have the ability to appeal a ruling by a local appraisal review board to SOAH. This bill:

Requires that the pilot program be implemented in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis Counties for a four-year period beginning with the ad valorem tax year that begins January 1, 2010, and in Collin, Denton, Fort Bend, Montgomery, and Nueces counties for a two-year period beginning with the ad valorem tax year that begins January 1, 2012.

Requires a property owner, to appeal an appraisal review board order to SOAH, to file with the chief appraiser of the appraisal district a completed notice of appeal to the office in the form prescribed by Section 2003.907 (Contents of Notice of Appeal) and a deposit in the amount of \$1,500, made payable to SOAH.

Requires that the notice of appeal be filed with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order.

Requires that the deposit be filed with the chief appraiser not later than the 90th day after the date the property owner receives notice of the order. Provides that the deposit is refundable less the filing fee if the property owner and the appraisal district settle before the appeal is heard or less the filing fee and the office's costs if the property owner and the appraisal district settle after the appeal is heard.

Provides that if the property owner fails to pay the deposit, SOAH is required to dismiss the property owner's appeal and the property owner is not entitled to file an appeal in any subsequent tax year.

Appraisal Review Board Rulings on Taxpayer Claims of Indigency—H.B. 2220

by Representative Yvonne Davis—Senate Sponsor: Senator Ellis

Under the Tax Code, taxpayers are required to pay either the amount of taxes they admit they owe or the full amount of taxes as billed in order to pursue litigation or a limited number of late correction remedies available under Sections 25.25(c) and (d) (Local Appraisal) and to challenge the failure of a chief appraiser to provide required statutory notices under Section 41.411 (Protest of Failure to Give Notice). These latter two remedies must initially be pursued before an appraisal review board. Failure to timely pay one's taxes is fatal to all such appeals. When the legislature amended the Tax Code to provide for a determination by the district court as to whether taxpayers were financially unable to pay their taxes in a timely fashion, and to provide a waiver of the statutory forfeiture provisions upon a finding of such inability, no consideration was given to matters that were not already before a district court, but instead were pending before appraisal review boards at the time the taxes became due. As a result, taxpayers who are challenging matters before appraisal review boards under either Sections 25.25(c) or (d) or Section 41.411 and find themselves unable to pay their taxes timely are having their cases automatically dismissed by appraisal review boards because those boards do not possess the power to review claims of indigency. This bill:

Authorizes appraisal review boards to rule on taxpayers' claims of inability to pay their taxes on a timely basis in claims pertaining to Sections 25.25(c) or (d) or Section 41.411, Tax Code, and allows both appraisal districts and taxpayers to then appeal those rulings to a district court.

Authorizing County Audits of a Hotel Regarding Hotel Occupancy Taxes—H.B. 2265

by Representative Ritter—Senate Sponsor: Senator Gallegos

Under current law, cities, counties, and the state receive hotel occupancy tax revenues from hotels and hotel related entities; however, while cities and the state may audit individual hotels to ensure proper remittance of the city or state hotel occupancy tax, as applicable, counties do not have a corresponding audit authority to ensure proper remittance of county hotel occupancy taxes. Recent audits conducted by two of the state's largest cities identified millions in underpayments of hotel occupancy taxes. Lacking such audit authority, counties have no internal means to review remittances submitted by hotels. This bill:

Authorizes a county that levies a hotel occupancy tax to audit hotels within its jurisdiction to ensure proper remittance of the local hotel occupancy tax owed to that county.

Authorizes a county, after the county gives reasonable notice to the hotel that the county intends to inspect the hotel's books or records, to access the books or records during business hours as necessary to conduct the audit.

Permanent Advisory Committee on Pollution Control Technology Tax Exemptions—H.B. 2280

by Representative Eiland—Senate Sponsor: Senator Jackson

Currently, the Texas Commission on Environmental Quality (TCEQ) permanent advisory committee on pollution control technology tax exemptions (advisory committee) has representatives from industry, appraisal districts, environmental groups, and taxing entities who advise TCEQ on policies relating to tax exemptions currently offered to businesses that employ pollution control activities in their businesses. TCEQ makes significant pollution control exemption decisions that affect taxable values and revenues to the state and local taxing entities. This bill:

Requires that at least one member of the advisory committee be a representative of a school district or junior college district in which property is located that is or previously was subject to an exemption under Section 11.31 (Pollution Control Property), Tax Code.

Internet Posting of Information Regarding Ad Valorem Tax Rates—H.B. 2338

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

Truth-in-taxation laws were first passed through a constitutional amendment in 1978 to provide taxpayers with additional property tax information to create a more transparent system. The intent of these laws is to allow taxpayers to understand their property tax notices and to prohibit a local government from raising property taxes without having public notices to announce the intent to raise taxes and adopt the tax increase in a public meeting. Since the adoption of the first truth in taxation laws, additional provisions, such as effective tax rates and rollback tax rates, have been created in the Tax Code to calculate an increase in property taxes. This bill:

Requires the county assessor-collector for each county that maintains an Internet website to post on the website of the county the adopted tax rate, the maintenance and operations tax rate, the debt tax rate, the effective tax rate, the effective maintenance and operations tax rate, and the rollback tax rate for the most recent five tax years beginning with the 2012 tax year for each taxing unit in all or part of the territory which is located in the county.

Requires that the information be presented in the form of a table under the heading "Truth in Taxation Summary."

Study on Reenacting the Research and Development Franchise Tax Credit—H.B. 2383

by Representative Geren—Senate Sponsor: Senator Harris

The research and development franchise tax credit, repealed by the 79th Legislature, 3rd Called Session, 2006, allowed a business to receive a five percent tax credit for the amount of a company's increased research and development expenditures over its historical spending levels on research and development for up to half of a company's franchise tax payment. This bill:

Requires the Legislative Budget Board (LBB) to conduct a study of the costs and benefits to the state of reenacting the tax credit for research and development activities in effect under Subchapter O (repealed) before the repeal of that subchapter by Chapter 1 (H.B. 3), Acts of the 79th Legislature, 3rd Called Session, 2006, and the types of research and development incentives available in other states.

Authorizes LBB to seek the assistance of other state agencies in conducting the study, but requires that the study be completed using existing resources available to LBB and any assisting agencies.

Requires LBB to report the results of the study to the legislature not later than January 1, 2013.

General Counsel to an Appraisal District—H.B. 2387

by Representative Menendez—Senate Sponsor: Senator Lucio

Currently, a chief appraiser in a county appraisal district is authorized to employ and compensate professional, clerical, and other personnel in order to carry out the duties of the appraisal office at the direction of the appraisal district board of directors. Although not specifically stated, such a provision might presumably include the selection, hiring, and retention of in-house counsel by the chief appraiser, creating a potential conflict of interest. This bill:

Adds the exception of a general counsel to the appraisal district to the provision which authorizes a chief appraiser to employ and compensate professional, clerical, and other personnel as provided by the budget.

Authorizes the board of directors of an appraisal district to employ a general counsel to the district to serve at the will of the board.

Requires the general counsel to provide counsel directly to the board of directors of an appraisal district and perform other duties and responsibilities as determined by the board.

Provides that the general counsel is entitled to compensation as provided by the budget adopted by the board of directors of an appraisal district.

Retailers With a Physical Presence in the State—H.B. 2403 [Vetoed]

by Representative Otto et al.—Senate Sponsors: Senators West and Davis

Many businesses are using business models that allow them to exploit a physical presence loophole in the law and consequently to avoid state sales tax responsibilities, despite creating and maintaining markets across state lines through remote sales while having a physical presence in Texas. With the advent of the Internet and the emergence of e-commerce, the number of sellers maintaining a physical presence while making remote sales to customers has exploded, creating a significant and growing loss of sales tax revenue to the states. This loss of revenue is compounded by the fact that traditional retailers with a storefront presence who must collect state and local sales and use taxes are placed at a competitive disadvantage. This bill:

Redefines "seller" and "retailer" under Section 151.008 ("Seller" or "Retailer"), Tax Code, to include 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 authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property.

Provides that for the purpose of Section 151.107 ("Sales Price" or "Receipts"), Tax Code, and in relation to the use tax, the definition of a retailer engaged in business in this state includes a retailer that holds a substantial ownership interest in, or is owned in whole or substantial part by, a person who maintains a location in this state from which business is conducted and if the retailer sells the same or a substantially similar line of products as the person with the location in this state and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in this state or the facilities or employees of the person with the location in this state are used to advertise, promote, or facilitate sales by the retailer to consumers, or perform any other activity on behalf of the retailer that is intended to establish or maintain a marketplace for the retailer in this state, including receiving or exchanging returned merchandise; holds a substantial ownership interest in, or is owned in whole or substantial part by, a person that maintains a distribution center, warehouse, or similar location in this state, and delivers property sold by the retailer to consumers; or otherwise does business in this state.

Defines "ownership" and "substantial" for the purposes of Section 151.107.

Tax Appraisal of Heavy Equipment Dealer's Inventory—H.B. 2476

by Representative Harless et al.—Senate Sponsor: Senator Eltife

The Texas Tax Code provides for separate treatment of heavy equipment dealers, similar to how car and boat dealers are treated under the Tax Code. However, there is some confusion regarding the applicability, calculation, and uniformity of business property taxes relating to businesses who primarily rent or lease heavy equipment. Currently, under the Tax Code, the taxable market value of a dealer's heavy equipment inventory is the total annual sales, less sales to dealers, fleet transactions, and subsequent sales, for a 12-month period. While existing law works well for the sales of heavy equipment, the question of how to value rentals of heavy equipment has been the subject of extended litigation and multiple interpretations by different appraisal offices. This bill:

Provides that, for the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory, 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 is considered to be the sum of the sales price of the item plus the total lease and rental payments received for the item in the preceding tax year.

Authorizes the court to award attorney's fees to a chief appraiser, district attorney, criminal district attorney, or county attorney who prevails in a suit to collect a penalty or enforce compliance with Section 23.1241 (Dealer's Heavy Equipment Inventory; Value), Tax Code. Authorizes the chief appraiser to collect the penalty in the name of the chief appraiser. Authorizes the chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney to sue to enforce compliance with Section 23.1241, Tax Code.

Requires the owner, in the case of a lease or rental, to assign a unit property tax to each item of heavy equipment leased or rented. Requires the owner, if the transaction is a lease or rental, to collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or rental. Requires the owner of the equipment to state the amount of the unit property tax assigned as a separate line item on an invoice.

Authorizes a dealer to apply to the chief appraiser for a refund of the unit property tax paid on a sale that is a fleet transaction. Requires the chief appraiser to determine whether to approve or deny, wholly or partly, the refund requested in the application. Requires the chief appraiser to deliver a written notice of the chief appraiser's determination to the collector maintaining the escrow account described by Section 23.1242 (Prepayment of Taxes by Heavy Equipment Dealers) and to the applicant that states the amount, if any, to be refunded. Requires a collector who receives a notice stating an amount to be refunded to pay the amount to the dealer not later than the 45th day after the date the collector receives the notice. Requires the dealer to use the dealer's best efforts to pay the refund to the customer who paid the tax that relates to the fleet transaction for which the refund is requested not later than the 30th day after the date the dealer receives the refund.

Requires the appraisal review board, if, in the case of a determination of eligibility for a refund request under Section 23.1243 (Refund of Prepayment of Taxes on Fleet Transaction), Tax Code, the board determines that the dealer is entitled to a refund in excess of the amount, if any, to which the chief appraiser determined the dealer to be entitled, to order the chief appraiser to deliver written notice of the board's determination to the collector and the dealer in the manner provided under Section 23.1243, Tax Code.

Partial Tax Exemption for Certain Beer—H.B. 2582

by Representative Murphy—Senate Sponsor: Senator Whitmire

Currently, an in-state small beer producer, also known as microbrewery, is granted a partial exemption from the state beer tax. An out-of-state beer producer is not eligible for this exemption. Courts have recently ruled that an in-state tax exemption violates the United States Constitution by discriminating against out-of-state commerce or imposing differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter. This bill:

Repeals Section 203.08 (Partial Tax Exemption for Certain Beer), Alcoholic Beverage Code.

Fees Charged for Management and Preservation of County Clerk Records—H.B. 2716

by Representative Darby—Senate Sponsor: Senator Carona

Certain statutory provisions require that a records management and preservation fee be deposited in a separate account in the general fund of certain counties and legislation is required to make those provisions apply to other counties and to make changes to other matters relating to the fee. This bill:

Requires a fee to be deposited in a separate records management and preservation account in the general fund of the county, rather than requiring the fee 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.

Requires that a record archives fee be deposited in a separate records archive account in the general fund of the county. Provides that any interest accrued remains with the account.

Authorizes the funds generated from the collection of a fee to be expended only for the preservation and restoration of the county clerk's records archive. Requires the county clerk to designate the public documents that are part of the records archive.

Requires the county clerk to prepare an annual written plan for funding the preservation and restoration of the county clerk's records archive before collecting the fee. Provides that the fee is subject to approval by the commissioners court in a public meeting during the budget process

Municipal Sales and Use Taxes for Street Maintenance—H.B. 2972 [Vetoed]

by Representative Todd Smith—Senate Sponsor: Senator Wentworth

A street maintenance sales tax gives cities the option, on voter approval, of implementing a local sales tax to provide revenue specifically for the repair and maintenance of existing streets. Many Texas cities have approved the sales tax and have successfully used the revenue to improve their local transportation systems. Under current law, the street maintenance sales tax must be reauthorized by voters every four years. Reauthorizations have been approved overwhelmingly, however, the cost of such frequent elections can be burdensome for cities. Furthermore, there is confusion over whether the repair of sidewalks is an appropriate use of the street maintenance tax. This bill:

Amends the Tax Code to require an election to reauthorize the tax every eight years, rather than every four years, and authorizes cities to use the street maintenance tax revenue to fund sidewalk repairs.

Hotel Occupancy Tax Rates in Certain Counties—H.B. 3076

by Representative Gallego—Senate Sponsor: Senator Uresti

Under current law, the county hotel occupancy tax rate may not exceed seven percent of the price paid for a room in a hotel in a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres. This bill:

Applies the same maximum tax rate to a county that borders the United Mexican States and in which there is located a national recreation area.

Authorizes such a county to impose a hotel occupancy tax where a municipality in the county also imposes such a tax under the condition that the combined tax rate does not exceed seven percent.

Appraisals on Property for Low-Income Housing—H.B. 3133

by Representative Eddie Rodriguez—Senate Sponsor: Senator Hinojosa

Currently, Habitat for Humanity affiliates receive a property tax exemption on land they have acquired and are using to build affordable housing for low-income individuals and families. The exemption for each property is valid for five years, after which period the property is placed back on a taxing unit's tax roll. Some Habitat for Humanity affiliates have created community development housing organizations (CDHO) to take advantage of certain federal funds. Such organizations are eligible for a separate three-year property tax exemption created specifically for them. However, a recent transfer of previously tax-exempt property involving a CDHO resulted in the CDHO losing its CDHO exemption and owing back taxes on the property based on an appraisal district's interpretation of the applicable statutes. This bill:

Clarifies the issue of property tax exemptions when real property is transferred from one tax-exempt organization to another by establishing criteria for a property to receive a tax exemption under Section 11.1825 (Organizations Constructing or Rehabilitating Low-Income Housing: Property Not Previously Exempt), Tax Code.

Provides that the transfer of property from an organization to a nonprofit organization that claims an exemption for the property under Section 11.181(a) (relating to an organization that is entitled to an exemption from taxation of improved or unimproved real property), Tax Code, is a proper use of and purpose for owning the property and does not affect the eligibility of the property for an exemption.

Establishes requirements on a chief appraiser when appraising real property that was previously owned by an organization that received a tax exemption for the property.

Taxation of Certain Oilfield Portable Units—H.B. 3182

by Representative Ritter—Senate Sponsor: Senator Williams

Oil drilling operations often require on-site sleeping accommodations, changing room accommodations, temporary offices, and other temporary work place accommodations. The types of oilfield portable units that provide these accommodations are diverse and may be subject to a variety of taxes and exemptions. This bill:

Provides that certain items are exempted from the taxes imposed by Chapter 151 (Limited Sales, Excise, and Use Tax), including motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicle), other than a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001 (Definitions).

Defines "oilfield portable unit."

Electronic Communication Between Property Owners and Appraisers—H.B. 3216

by Representative Otto—Senate Sponsor: Senator West

Many people rely on electronic communication as their primary means of communication. This bill:

Authorizes chief appraisers, appraisal districts, and appraisal review boards to enter into agreements with property owners or their designated agents to send notices, renditions, application forms, or completed applications in an electronic format.

School District Participation in Tax Increment Financing Reinvestment Zones—H.B. 3465

by Representative Sheffield—Senate Sponsor: Senator Fraser

There is some confusion regarding the period for which a school district's participation in certain tax increment financing investment zones may be taken into account for purposes of determining the value of taxable property in the district. Certain tax increment financing reinvestment zones may be created for a 40-year term and may subsequently be extended for another 40 years by city ordinance. Participating taxing entities in the zone may pass ordinances or authorizations to continue to participate in the zone but others, such as local school districts, may leave the request pending while requesting clarification regarding whether the district's continued participation in the zone would affect the amount of state aid the district receives. This bill:

Applies 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.

Provides that, notwithstanding sections prohibiting the total dollar amount deducted in each year from exceeding the captured appraised value estimated for that year in the reinvestment zone financing plan approved under the Tax Code before September 1, 1999, if on or after January 1, 2017, the municipality adopts an ordinance designating a termination date for the zone that is later than the termination date designated in the ordinance creating the zone, the number of years for which the total dollar amount may be deducted is limited to the duration of the zone.

Appraised Value of Temporary Production Aircraft—H.B. 3727

by Representatives Hilderbran and Martinez Fischer—Senate Sponsor: Senator Uresti

The property tax on tangible personal property may be based on the property's market value. Interested parties argue that a temporary production aircraft, or an aircraft being manufactured and assembled in Texas and only temporarily located in the state, is not yet ready for registration or flight by a certified air carrier, so the published list price for a completed aircraft is not an accurate indication of the actual market value of the aircraft while it is still in production. This 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.

Provides that the legislature finds that there is a lack of information that reliably establishes the market value of temporary production aircraft and has enacted this legislation to specify the method to be used in determining the appraised value of such aircraft.

Calculation of Ad Valorem Taxes for Totally Disabled Veterans—S.B. 201

by Senator Uresti et al.—House Sponsor: Representative Callegari

S.B. 469, 81st Legislature, Regular Session, 2009, provided for property tax exemptions for 100 percent disabled veterans. Some appraisal districts misinterpreted the legislative intent such that if a disabled veteran sold his home, the exemption stayed with the home instead of following the veteran. This bill:

Authorizes a person who qualifies for an exemption under Section 11.131 (Residence Homestead of 100 Percent or Totally Disabled Veteran) after January 1 of a tax year to receive the exemption for the applicable portion of that tax year immediately on qualification of the exemption.

Provides that if the appraisal roll shows that a residence homestead exemption under Section 11.131 applicable to a property on January 1 of a year terminated during the year, the tax due against the residence homestead is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the exemption under Section 11.131 during the year by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated.

Provides that if a person qualifies for an exemption under Section 11.131 after the beginning of a tax year, the amount of the taxes on the residence homestead of the person for the tax year is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the person not qualified for the exemption under Section 11.131 by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed before the date the person qualified for the exemption under Section 11.131.

Requires the assessor for each taxing unit, if a person qualifies for an exemption under Section 11.131 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, to recalculate the amount of the tax due on the property and correct the tax roll.

Requires the assessor, if the tax bill has been mailed and the tax on the property has not been paid, to mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent.

Requires the tax collector for the tax collecting unit, if the tax on the property has been paid, to refund to the person who paid the tax the amount by which the payment exceeded the tax due.

Hotel Occupancy Tax Rate in Certain Municipalities—S.B. 349

by Senator Eltife—House Sponsor: Representative Hopson

Certain municipalities are authorized to impose a hotel occupancy tax rate not to exceed nine percent of the price paid for a hotel room while that tax in certain other municipalities is capped at seven percent. Some municipalities have expressed support for increasing the seven percent tax rate out of a desire to create or expand convention center facilities. This bill:

Prohibits 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 the State of Louisiana and has a population of at least 60,000 from exceeding nine percent of the price paid for a room.

Requires the municipalities to allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipalities that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

Authority to Contract to Collect Certain Assessments—S.B. 422

by Senator Duncan—House Sponsor: Representative Frullo

Recently, central appraisal districts in Texas have contracted with their local municipalities to collect the taxes for tax increment finance reinvestment zones and assessments for public improvement districts. However, a recent attorney general opinion has been interpreted by some to indicate that the term "taxes" with regard to contracts for tax assessment and collection does not include special assessments, meaning contracts between a municipality's governing body and the board of directors of an appraisal district to collect special assessments under the Public Improvement District Assessment Act may not be explicitly authorized under existing law. This opinion has caused problems for certain municipalities that lack the mechanisms or staff to collect public improvement district special assessments. This bill:

Authorizes the governing body of a municipality or county to contract with the governing body of another taxing unit, as defined in the Tax Code, 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.

Penalty for Late Payment of Ad Valorem Taxes on Property in a Disaster Area—S.B. 432

by Senator Jackson—House Sponsor: Representative Bonnen

Section 31.032 (Installment Payments of Taxes on Property in Disaster Area), Tax Code, provides an installment payment option for properties located in a disaster area and further provides for a 12 percent penalty for late payment. Installment payments are also permitted for individuals 65 years of age or over and for disabled taxpayers, with late payments incurring a six percent penalty. Disaster installment payments that are late should also incur this six percent penalty and be made consistent with other installment payment plans. This bill:

Reduces the penalty, if a person fails to make a payment before the applicable date provided by Section 31.032(b) (relating to paying of property taxes in installments), Tax Code, from 12 percent to six percent and interest as provided by Section 33.01(c) (relating to the interest accrued by delinquent tax).

Ad Valorem Tax Appraisal of Open-Space Land Devoted to Water Stewardship—S.B. 449

by Senator Watson et al.—House Sponsor: Representative Ritter

Under current law, landowners can qualify for a number of tax valuation options based on land management practices. Two of the more commonly used options are the agricultural and wildlife valuations, commonly referred to as the "ag or wildlife exemptions." While generally referred to as exemptions, neither option actually exempts property from taxation. Instead, these valuation options allow property to be appraised based on its productive capacity in agriculture or open space, which is generally a lower value than an appraisal for highest and best use. This usually results in a lower appraisal and lower property taxes for the landowner. This bill:

Redefines "agricultural use" to include the use of land for water stewardship and defines "water stewardship."

Requires the Texas Parks and Wildlife Department (TPWD), with the assistance of the comptroller, to develop standards for determining whether land qualifies under Section 23.51(9) (relating to the definition of water stewardship) for appraisal. Requires the Texas AgriLife Extension Service, on request of TPWD or the comptroller, to

assist TPWD and the comptroller in developing the standards. Requires the comptroller to designate one chief appraiser from a rural area of this state and one chief appraiser from an urban area of this state to assist in the development of the standards. Requires the comptroller by rule to adopt the standards developed by TPWD or adopt alternative standards and distribute those rules to each appraisal district.

Requires that the standards adopted for determining whether land qualifies under Section 23.51(9) require that a tract of land be at least a specified minimum size and not more than a specified maximum size as necessary to accomplish the water-stewardship use and possess specific water-related attributes based on the intensity of use of the land and other requirements relating to the productivity of the land; require that the owner of the land hold a water right that authorizes the use of a specified minimum amount of water for instream flows dedicated to environmental needs or bay and estuary inflows for the land to qualify under Section 23.51(9)(l) (relating to holding a water right that authorizes the use of water for instream flows dedicated to environmental needs) for appraisal under this subchapter; specify the degree to which the land is authorized to be developed without becoming ineligible under Section 23.56(b) (relating to land ineligible for appraisal as open-space land) for appraisal as provided by this subchapter on the basis of use for water stewardship; and address the activities listed in Section 23.51(9) (relating to the definition of water stewardship), the region in this state in which the land is located, and any other factor TPWD or the comptroller determines is relevant.

Requires the chief appraiser and the appraisal review board, in determining whether land qualifies under Section 23.51(9) for appraisal to apply the standards adopted and, to the extent they do not conflict with those standards, the appraisal manuals developed and distributed under Section 23.52(d) (relating to manuals for open-space land appraisals).

Provides that land is not eligible for appraisal on the basis of use for water stewardship if the land was appraised as qualified open-space land at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal on a basis other than use for water stewardship or the land was appraised as qualified timber land under Chapter 23 (Appraisal Methods and Procedures), Subchapter E (Appraisal of Timber Land), at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal under that subchapter.

Homestead Exemption for Surviving Spouse of a Totally Disabled Veteran—S.B. 516

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

Currently, a disabled veteran who receives from the United States Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead. In some instances, the spouses of disabled veterans forego career opportunities and many reduce their work hours thereby affecting their income and retirement. This bill:

Entitles the surviving spouse of a disabled veteran who qualified for an exemption under Section 11.131(b) (relating to a taxation exemption for a 100 percent disabled veteran), Tax Code, when the disabled veteran died to an exemption from taxation of the total appraised 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 the residence homestead of the surviving spouse.

Entitles a surviving spouse, if the surviving spouse who qualifies for an exemption subsequently qualifies a different property as the surviving spouse's residence homestead, to an exemption from taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from taxation of the former homestead in the

last year in which the surviving spouse received an exemption under that subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

Entitles the surviving spouse 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.

Requires the chief appraiser to accept and approve or deny an application for a residence homestead exemption, including an exemption under Section 11.131 (Residence Homestead of 100 Percent or Totally Disabled Veteran) for the residence homestead of a disabled veteran or the surviving spouse of a disabled veteran after the deadline for filing it has passed if it is filed not later than one year after the delinquency date for the taxes on the homestead.

Liability for Interest on Escaped Ad Valorem Taxes From the Previous Year—S.B. 551

by Senators Williams and West—House Sponsor: Representative Otto

Under current law, if an appraisal district sends a property owner a tax bill for an omitted improvement, a taxing entity within the district may charge the property owner interest as if it were the property owner's fault that the property escaped taxation. This interest can be charged even if the property owner received building permits for the improvement or took other appropriate steps so that the appraisal district should have known that the land was improved. This bill:

Provides that the amount of back taxes due incurs interest calculated at the rate provided by Section 33.01(c) (relating to the rate at which a delinquent tax accrues interest), Tax Code, from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

Provides that an appraisal district has constructive notice of the presence of an improvement if a building permit for the improvement has been issued by an appropriate governmental entity. Provides 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.

Provides that if an appeal under Chapter 41A (Appeal Through Binding Arbitration) or 42 (Judicial Review), Tax Code, relating to the taxes imposed on the omitted improvement is pending on the 120th day after the date the tax bill for the back taxes on the improvement is sent, the property owner is considered to have paid the back taxes due by that date if the property owner pays the amount of taxes required by Section 41A.10 (Payment of Taxes Pending Appeal) or 42.08 (Forfeiture of Remedy for Nonpayment of Taxes), Tax Code, as applicable.

Requires that a tax bill or separate statement described by Section 31.01(c) (relating to requirements of a tax bill or separate statement), Tax Code, for a tax bill that includes back taxes on an improvement that escaped taxation in a prior year, 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.

Service of Process on Certain Entities for Delinquent Property Taxes—S.B. 582

by Senators Harris and Watson—House Sponsor: Representative Lewis

Under current law, the Office of the Secretary of State (SOS) is authorized to act as an agent for service of process on foreign business entities which are required to appoint a registered agent for the service of citation, but have failed

to do so. However, under the Business Organizations Code, a foreign business entity that owns real estate or holds a lien on real estate in Texas is not required to appoint a registered agent for service of process. Section 17.091, Title 2, Civil Practice and Remedies Code, authorizes SOS to act as an agent for service of process on a nonresident defendant in a suit to collect delinquent property taxes. This bill:

Permits the service of process for the collection of delinquent property taxes on a domestic or foreign limited liability company whose right to transact business in Texas has been terminated pursuant to certain statutes.

Defines "nonresident" as including certain foreign corporations and business entities that are not required to appoint a registered agent under state law.

Tax Increment Financing in Hospital Districts—S.B. 627

by Senator Davis—House Sponsor: Representative Veasey

Previous legislatures have granted a commissioners court the authority to make decisions regarding the abatement of taxes for economic development purposes. The Tax Code allows a commissioners court to enter into agreements on behalf of a hospital district for tax abatements. The commissioners court is responsible for adopting the budget and setting the tax rate for the hospital district, and interested parties suggest that a commissioners court's authority to make decisions regarding a hospital district's tax levy should be expanded to encompass the use of other economic development tools, such as tax increment financing (TIF) agreements. This bill:

Requires a taxing unit, notwithstanding any termination of the reinvestment zone and unless otherwise specified by an agreement between the taxing unit and the municipality or county that created the zone, to make a required payment not later than the 90th day after the later of the delinquency date for the unit's property taxes or the date the municipality or county that created the zone submits to the taxing unit an invoice specifying the tax increment produced by the taxing unit and the amount the taxing unit is required to pay into the tax increment fund for the zone.

Does not apply to Bexar County Hospital District, Nueces County Hospital District, El Paso County Hospital District, or Harris County Hospital District.

Authorizes the commissioners court of a county that enters into an agreement with the governing body of a municipality to enter into an agreement with the governing body of the municipality on behalf of a taxing unit other than the county if by statute the ad valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit.

Provides that the agreement entered into on behalf of the other taxing unit is not required to contain the same conditions as the agreement entered into on behalf of the county.

Authorizes the commissioners court of a county that creates a zone to provide by order for the payment into the tax increment fund (fund) for the zone of a portion of the tax increment produced by a taxing unit other than the county if by statute the ad valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit.

Authorizes the order to include conditions for payment of that tax increment into the fund that are different from the conditions applicable to the county's obligation to pay into the fund the tax increment produced by the county.

Provides that the commissioners court of a county is not authorized to enter into an agreement on behalf of another taxing unit or to provide for the payment into the fund of a portion of the tax increment produced by another taxing unit solely because the county tax assessor-collector is required by law to assess or collect the taxing unit's ad valorem taxes.

Sales and Use Tax Information Provided to Certain Local Governmental Entities—S.B. 758

by Senator Deuell—House Sponsor: Representative Hilderbran

Local governments are reliant on sales and use tax for a significant percentage of their budgets. As a result, the comptroller provides local governments with information on sales tax remittances by most businesses within a given jurisdiction. This information has proven to be a useful piece of a local government's budgeting, forecasting, and cash flow management puzzle.

The detailed data provided by the comptroller's office is only available regarding businesses that have collected over \$25,000 in sales taxes in the prior year, which equates to just over \$300,000 in taxable sales per year. Many small businesses that make up a significant employment base and percentage of a local economy are therefore missing from a local government's detailed sales tax report.

Currently, a limited number of cities that impose a sales tax, but do not impose ad valorem taxes, have access to detailed sales tax data from the comptroller's office regarding any business that has remitted \$5,000 in sales tax during the previous year. This compares to the current \$25,000 for those local governments that impose both a sales and an ad valorem tax. This bill:

Requires the comptroller on request, except as otherwise provided by Section 321.3022(a-1) (relating to requiring the comptroller on request to provide to a municipality or other local governmental entity certain information), Tax Code, to provide to a municipality or other local governmental entity that has adopted a tax under Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, information relating to the amount of tax paid to the municipality or other local governmental entity during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$5,000 and any other information as provided by Section 321.3022(a-1).

Requires the comptroller on request, except as otherwise provided by Section 322.2022(a) (relating to certain information the comptroller is required to provide to a taxing entity upon request), Tax Code, to provide to a taxing entity information relating to the amount of tax paid to the entity under Chapter 322 (Sales and Use Taxes for Special Purpose Taxing Authorities), Tax Code, during the preceding or current calendar year by each person doing business in the area included in the entity who annually remits to the comptroller state and local sales tax payments of more than \$5,000 and any other information as provided by Section 322.2022(a).

Requires the comptroller on request, except as otherwise provided by Section 323.3022(b) (relating to certain information the comptroller is required to provide to a county or other local governmental entity upon request), Tax Code, to provide to a county or other local governmental entity that has adopted a tax under Chapter 323 (County Sales and Use Tax Act), Tax Code, information relating to the amount of tax paid to the county or other local governmental entity Chapter 323 during the preceding or current calendar year by each person doing business in the county or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$5,000 and any other information as provided by Section 323.3022(b).

Transfer of Ad Valorem Tax Lien—S.B. 762

by Senator Carona—House Sponsor: Representative Paxton

When a property owner owes property taxes, the law automatically imposes a lien on the property in the amount of the obligation. The owner of property subject to a lien may request that a third party lender purchase the lien from the taxing authority, allowing the owner to establish a repayment program with that lender for the value of the taxes owed. In 2007, legislation was passed that regulated and required licensing of property tax lien transferees and made substantive changes to the Tax Code in the areas of notice and procedure. The Office of Consumer Credit

Commissioner has since conducted audits of licensed transferees and determined a need for clarification of laws pertaining to fees, notices, and other procedural issues. This bill:

Authorizes the collector's certification to be in one document, if the property owner has executed an authorization consenting to a transfer of the tax liens for both the taxes on the property that are not delinquent and taxes on the property that are delinquent.

Provides that a right of rescission applies to a transfer of a tax lien on residential property owned and used by the property owner for personal, family, or household purposes.

Prohibits a transferee of a tax lien from charging a fee for any expenses arising after closing, including collection costs, except for interest that is expressly authorized; the fees for filing the release of the tax lien; the fee for providing a payoff statement; the fee for providing information regarding the current balance owed by the property owner; and certain fees that are expressly authorized.

Authorizes the contract between the property owner and the transferee to provide for interest for default, in addition to the interest permitted, if any part of the installment remains unpaid after the 10th day after the date the installment is due, including Sundays and holidays.

Provides that a transferee is not required to release payoff information pursuant to a notice unless the notice contains the information prescribed by the Finance Commission of Texas (finance commission).

Provides that a transfer of a tax lien under Section 33.445 (b) (relating to the form and manner each joined taxing unit is required to transfer its tax lien), Tax Code, does not require authorization by the property owner.

Authorizes the contract between a property tax lender and a property owner to require the property owner to pay certain costs after closing.

Prohibits a property tax lender from charging any fee, other than interest, after closing in connection with the transfer of a tax lien unless the fee is expressly authorized or any interest that is not expressly authorized the Tax Code.

Requires any amount charged by a property tax lender after closing, except for certain authorized charges, to be for services performed by a person that is not an employee of the property tax lender.

Authorizes the finance commission to adopt rules implementing and interpreting provisions of this bill.

Authorizes the consumer credit commissioner to assess an administrative penalty against a person who violates Section 32.06(b-1) (relating to sending a copy of a sworn document to any mortgage servicer), Tax Code, regardless of whether the violation is knowing or wilful.

Hotel Occupancy Taxes in Aransas County—S.B. 804

by Senator Hegar—House Sponsor: Representative Hunter

Under current law, the permissible uses for hotel occupancy tax proceeds are unclear regarding whether Aransas County has the authority to direct hotel occupancy tax revenue for certain purposes. This bill:

Authorizes a county authorized to impose a hotel occupancy tax 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, in addition to other uses, to use revenue from the hotel occupancy tax to acquire, construct, furnish, or maintain facilities, such as aquariums, birding centers and viewing sites, history and art centers, and nature centers and trails; advertise and conduct solicitations and

promotional programs to attract conventions and visitors; and provide and maintain public restrooms and litter containers on public land in an area that is a tourism venue.

Enforcement of Tax Laws—S.B. 934

by Senator Williams—House Sponsor: Representative Hilderbran

The comptroller is authorized by statute to employ investigators to assist in the administration of the Tax Code and to commission those investigators as peace officers. Comptroller investigators are assigned to the Criminal Investigation Division (CID) and assist in the administration of the Tax Code primarily by detecting and investigating crimes. Case actions are publicized on the agency's website to deter others contemplating tax fraud. Deterring such conduct helps ensure the state's receipt of tax revenue. This bill:

Authorizes a criminal conspiracy, if the object of the conspiracy is an offense classified as a felony under the Tax Code, regardless of whether the offense was committed, to be prosecuted in any county in which venue is proper under the Tax Code for the offense.

Authorizes the offense of engaging in organized criminal activity to be prosecuted in any county in which any act is committed to effect an objective of the combination, or, if the prosecution is based on a criminal offense classified as a felony under the Tax Code, in any county in which venue is proper under the Tax Code.

Authorizes money laundering to be prosecuted in the county in which the offense was committed or, if the prosecution is based on a criminal offense classified as a felony under the Tax Code, in any county in which venue is proper under the Tax Code for the offense.

Authorizes the state, in the trial of an offense under the Tax Code or an offense under the Penal Code related to the administration of taxes, 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.

Requires the state to provide a copy of the written request to the defendant before the date the trial begins.

Requires the court, if the state requests affirmative findings in the manner required, to make the requested affirmative findings and enter the findings in the papers in the case if the court finds by clear and convincing evidence that the defendant's failure to pay a tax or file a report when due was a result of fraud or an intent to evade the tax; the defendant altered, destroyed, or concealed any record, document, or thing, or presented to the comptroller any altered or fraudulent record, document, or thing, or otherwise engaged in fraudulent conduct for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the comptroller; or the defendant's failure to file a report or to pay a tax when the tax became due is attributable to fraud or an intent to evade the application of a tax or collection.

Authorizes the comptroller to accept money or property under a federal equitable sharing program.

Requires the comptroller, in accepting the money or property, to comply with federal program requirements, including those governing accounting and the permissible use of an award.

Entitles the comptroller to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that the comptroller believes is necessary for the enforcement or administration of Chapter 151 (Limited Sales, Excise, and Use Tax), 152 (Taxes on Sale, Rental, and Use of Motor Vehicles), 154 (Cigarette Tax), 155 (Cigars and Tobacco Products Tax), or 162 (Motor Fuel Tax), Tax Code, including criminal history record information that relates to a person who meets one of certain criteria.

Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of certain activities, including any offense classified as a felony under the Tax Code.

Provides that an investigator commissioned by the comptroller as a peace officer has the powers of a peace officer coextensive with the boundaries of this state.

Authorizes the comptroller or the attorney general to use information or records made confidential to enforce criminal laws of this state or the United States; or authorize the use of information or records made confidential in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

Provides that the penalties provided by Subsection (b) (relating to imposing an additional penalty of 50 percent of the tax due) are intended to be remedial in nature and are provided for the protection of state revenue and to reimburse the state for expenses incurred as a result of fraud, including expenses incurred in conducting an investigation.

Provides that, in determining the expiration date for a period when a tax imposed by this title may be assessed, collected, or refunded, the following periods are not considered: the period following the date of a tax payment made under protest, but only if a lawsuit is timely filed in accordance with Chapter 112 (Taxpayers' Suits); the period during which a judicial proceeding is pending in a court of competent jurisdiction to determine the amount of the tax due; the period during which an administrative redetermination or refund hearing is pending before the comptroller; and 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.

Requires all sellers and all other persons storing, using, or consuming in this state a taxable item purchased from a retailer to keep certain records in the form the comptroller requires, including records of all gross receipts, including documentation in the form of receipts, shipping manifests, invoices, and other pertinent papers, from each sale, rental, lease, taxable service, and taxable labor transaction occurring during each reporting period, and records in the form of sales receipts, invoices, and other pertinent papers 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.

Provides that it is an offense punishable by a Class C misdemeanor if the amount of the tax collected and not paid is less than \$50, rather than less than \$10,000; a Class B misdemeanor if the amount of the tax collected and not paid is \$50 or more but less than \$500; a Class A misdemeanor if the amount of the tax collected and not paid is \$500 or more but less than \$1,500; a state jail felony if the amount of the tax collected and not paid is \$1,500 or more, rather than \$10,000 or more, but less than \$20,000; a felony of the third degree if the amount of the tax collected and not paid is \$20,000 or more but less than \$100,000; a felony of the second degree if the amount of the tax collected and not paid is \$100,000 or more but less than \$200,000; and a felony of the first degree if the amount of the tax collected and not paid is \$200,000 or more.

Provides that conduct, when tax is collected and not paid pursuant to one scheme or continuous course of conduct, may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Provides that a person commits an offense if the person knowingly fails to produce to the comptroller records that document a taxpayer's taxable sale of items that the taxpayer obtained using a resale certificate.

Provides that an offense is punishable by a Class C misdemeanor if the tax avoided by the use of the resale certificate is less than \$20; a Class B misdemeanor if the tax avoided by the use of the resale certificate is \$20 or more but less than \$200; a Class A misdemeanor if the tax avoided by the use of the resale certificate is \$200 or more but less than \$750; a felony of the third degree if the tax avoided by the use of the resale certificate is \$750 or

more but less than \$20,000; or a felony of the second degree if the tax avoided by the use of the resale certificate is \$20,000 or more.

Provides that it is an affirmative defense to prosecution that the items listed for purchase on the resale certificate had not been resold at the time of the comptroller's request for records.

Provides that conduct related to one scheme or continuous course of conduct, may be considered as one offense and authorizes that the amounts of tax avoided be aggregated in determining the grade of the offense.

Authorizes the comptroller to sell property forfeited to the state at public or private sale in any commercially reasonable manner or retain the property for official use by the comptroller's criminal investigation division.

Authorizes property retained for use under this subsection to later be sold by the comptroller under this section.

Provides that the comptroller is considered the owner if an automobile or other vehicle seized is forfeited and retained by the comptroller.

Requires the Texas Department of Motor Vehicles (TxDMV) to issue a certificate of title for the vehicle to the comptroller.

Authorizes the comptroller to maintain, repair, use, and operate the vehicle with money appropriated for current operations.

Authorizes the comptroller to photograph cigarettes seized before their sale.

Provides that, in a proceeding, including a criminal proceeding, the state is not required to produce the actual cigarettes.

Provides that the photographs are admissible in evidence under rules of law governing the admissibility of photographs.

Provides that the photographs are as admissible in evidence as are the cigarettes themselves.

Provides that a person's rights of discovery and inspection of tangible physical evidence are satisfied if the photographs taken under this section are made available to the person by the state on order of any court or other entity having jurisdiction over the proceeding.

Authorizes the comptroller to sell property forfeited to the state at public or private sale in any commercially reasonable manner or retain the property for official use by the comptroller's criminal investigation division.

Authorizes property retained to later be sold by the comptroller.

Provides that the comptroller is considered the owner if an automobile or other vehicle seized is forfeited and retained by the comptroller.

Requires TxDMV to issue a certificate of title for the vehicle to the comptroller.

Authorizes the comptroller to maintain, repair, use, and operate the vehicle with money appropriated for current operations.

Authorizes the comptroller to photograph tobacco products seized before their sale.

Provides that, in a proceeding, including a criminal proceeding, the state is not required to produce the actual tobacco products.

Provides that the photographs are admissible in evidence under rules of law governing the admissibility of photographs.

Provides that the photographs are as admissible in evidence as are the tobacco products themselves.

Provides that a person's rights of discovery and inspection of tangible physical evidence are satisfied if the photographs taken under this section are made available to the person by the state on order of any court or other entity having jurisdiction over the proceeding.

Hotel Occupancy Tax Rebates—S.B. 977

by Senator Hinojosa—House Sponsor: Representative Torres

Certain provisions of law relating to municipal hotel occupancy taxes allow for eligible municipalities to receive certain tax rebates from a hotel project and certain ancillary facilities, but questions have arisen regarding the procedure for a rebate. Additionally, provisions in the Tax Code relating to municipal hotel occupancy allow for "eligible central municipalities" to receive certain rebates for sales and use tax and hotel occupancy taxes imposed by the state, if the hotel convention center projects meet certain criteria (namely that the hotel be located within 1,000 feet of a municipal convention center). This bill:

Requires the comptroller, notwithstanding any other law, to deposit eligible taxable proceeds that were collected by or forwarded to the comptroller, and to which the qualified hotel project is entitled according to an agreement in trust in a separate suspense account of the project.

Requires the comptroller to rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled under Section 2303.5055 (Refund, Rebate, or Payment of Tax Proceeds to Qualified Hotel Project), Government Code, at least quarterly.

Requires the comptroller to rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled under Section 151.429 (Tax Refunds for Enterprise Projects), Tax Code, at least monthly.

Provides that a suspense account is outside the state treasury and authorizes the comptroller to make a rebate, refund, or authorized payment without the necessity of an appropriation.

Redefines "eligible central municipality" to include 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.

Taxation of Property of a Local Government Corporation—S.B. 1120

by Senator Seliger—House Sponsor: Representative Lewis

A local government corporation located outside of the Permian Basin is currently in the process of acquiring two privately owned natural gas plants located in Ector County. Under Chapter 431 (Texas Transportation Corporation Act), Transportation Code, this type of organization is exempt from property taxes, effectively costing Ector County Independent School District, the City of Odessa, Ector County, Ector County Hospital District, and Odessa College millions of dollars in lost tax revenue. The local governments that lose this taxable property have limited say in the matter and are generally unable to prevent or opt out of the loss of this value from their tax rolls. This bill:

Provides that the property of a local government corporation and a transaction to acquire the property is exempt from taxation in the same manner as a corporation created under Chapter 394 (Housing Finance Corporations in Municipalities and Counties), Local Government Code.

Provides that property of a local government corporation created by a municipal power agency that was created under Subchapter C (Municipal Power Agencies), Chapter 163 (Joint Powers Agencies), Utilities Code, is not exempt from ad valorem taxation if the property is located outside of the boundaries of each of the municipalities that created the municipal power agency.

Hotel Occupancy Taxes in Henderson County—S.B. 1185

by Senator Nichols—House Sponsor: Representative Gooden

Chapter 352 (County Hotel Occupancy Taxes), Tax Code, authorizes the imposition of a county hotel tax. Currently, Henderson County does not have a hotel occupancy tax in place to be applied toward operations and maintenance of the Henderson County Regional Fair Park facility (facility). Current funding for the facility is generated through events hosted at the facility and from inconsistent amounts allocated in the county budget. This bill:

Authorizes 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.

Prohibits the tax rate in such a county authorized to impose a hotel occupancy tax from exceeding two percent of the price paid for a room in a hotel.

Authorizes the revenue from a tax imposed by such a county authorized to impose the hotel occupancy tax to be used only to operate and maintain a fairground in the county that has a substantial impact on tourism and hotel activity.

Taxing Unit Participation in a Suit to Order a Change in an Appraisal Roll—S.B. 1341

by Senator Seliger—House Sponsor: Representative Elkins

Section 42.08 (Forfeiture of Remedy for Nonpayment of Taxes), Tax Code, requires that a property owner who appeals a decision of an appraisal review board under Chapter 42 (Judicial Review), Tax Code, pay each taxing unit that imposes taxes against the property, prior to the delinquency date, the undisputed amount of taxes due, or the amount of taxes due pursuant to the appraisal review board order.

Section 25.25 (Correction of Appraisal Roll), Tax Code, also authorizes appeals by property owners where the deadline for routine appeals under Chapter 42 has expired, but only for the purpose of correcting clerical errors or substantial errors in the appraisal of property for tax purposes. A property owner must also comply with the prepayment requirement under Section 42.08 in cases where an appeal is brought under Section 25.25. However, there is no corresponding provision under Section 25.25 providing for intervention by taxing units as contained in Section 42.08. This bill:

Conforms Section 25.25, Tax Code, with Section 42.08 by authorizing taxing units to intervene in a Section 25.25 appeal for the limited purpose of assisting the court in determining whether the property owner has complied with the prepayment requirement.

Authority of a Chief Appraiser or Tax Collector to Waive Certain Penalties—S.B. 1385*by Senator Lucio—House Sponsor: Representative Oliveira*

Current law requires that an appraisal on dealer inventory for motor vehicles, outboard vessels, and heavy equipment be based on sales from the prior year. Dealers are required to file a monthly dealer's motor vehicle inventory tax statement, listing the vehicles sold and prepaying property taxes for each vehicle. Several penalties, including misdemeanors, liens, and fines, can be imposed if a dealer does not file the monthly tax statement by the tenth day of the following month. The law does not allow for waiver of a penalty, even if the failure was due to a reasonable cause. This bill:

Authorizes an ad valorem tax collector or chief appraiser to waive a certain penalty upon determining that the dealer or retailer exercised reasonable diligence to comply with or has substantially complied with the requirements of certain sections of the Tax Code.

Sets forth procedures for obtaining such a waiver.

Deadline for Filing Suit to Change an Appraisal Roll—S.B. 1404*by Senator Hinojosa—House Sponsor: Representative Yvonne Davis*

Interested parties contend that current law relating to the deadline for filing a suit to compel an appraisal review board to change an appraisal roll is in need of revision. This bill:

Changes the time period within which a property owner or chief appraiser is authorized to file suit to compel an 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.

Hotel Occupancy Taxes in Bastrop County—S.B. 1413*by Senator Hegar—House Sponsor: Representative Kleinschmidt*

Under current law, the state imposes a six percent hotel occupancy tax and local taxing authorities are authorized to impose an additional local tax. In Bastrop County, different hotel occupancy tax rates are imposed in different parts of the county. This bill:

Authorizes 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 hotel occupancy tax.

Prohibits the tax rate in such a county authorized to impose the hotel occupancy tax, except as otherwise provided, from exceeding seven percent of the price paid for a room in a hotel.

Requires the county to impose hotel occupancy tax at a rate that is prohibited from exceeding 0.75 percent of the price paid for a room in a hotel if the hotel occupancy tax is located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel or the extraterritorial jurisdiction of that municipality and the municipality imposes a tax in that area applicable to the hotel.

Correction of an Ad Valorem Tax Appraisal Roll—S.B. 1441

by Senator Ellis—House Sponsor: Representative Yvonne Davis

Since its inception, the Tax Code has required taxpayers to exhaust all possible claims before an appraisal review board before seeking judicial review. Claims that could have been presented legally, but were not presented to an appraisal review board, are prohibited from being raised in any suits before a district court or as a defense to delinquent property tax collection actions.

Section 25.25(c) (Correction of Appraisal Roll), Tax Code, contains limited remedies allowing for the correction of problems that taxpayers failed to address during the normal appeals period, such as overvaluations caused by clerical errors, properties being taxed more than once, and properties that are not in the form or location shown on the appraisal roll. However, appraisal review boards have no authority under current law to retroactively correct an erroneous taxation of property to a person who is not its owner. This bill:

Authorizes an appraisal review board, on motion of the chief appraiser or of a property owner, to direct by written order changes in the appraisal roll for any of the five preceding years to correct certain errors, including an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.

Appraisal for Ad Valorem Tax Purposes of a Real Property Interest in Oil or Gas in Place—S.B. 1505

by Senator Uresti et al.—House Sponsor: Representative Lewis

The Texas Constitution requires that oil and gas properties be taxed at their current market value, which requires an estimation of the price of oil and gas in the coming tax year to be calculated. To aid in the appraisal of these properties, current law directs the comptroller to forecast the future oil and gas price and to calculate a market condition factor for the tax year and escalation rates for future years. Because of the volatility of the price of oil and gas, these estimates are nearly impossible to complete with consistent accuracy. The market condition factor and escalation rates are typically found to be inaccurate each year by both the taxing and taxed entities involved in the appraisal process. This bill:

Requires that the method, if a real property interest in oil or gas in place is appraised by a method that takes into account the future income from the sale of oil or gas to be produced from the interest, use the average price of the oil or gas from the interest for the preceding calendar year multiplied by a price adjustment factor as the price at which the oil or gas produced from the interest is projected to be sold in the current year of the appraisal.

Requires the chief appraiser to calculate the price adjustment factor by dividing the price of imported low-sulfur light crude oil in nominal dollars or the spot price of natural gas at the Henry Hub in nominal dollars, as applicable, as projected for the current calendar year by the United States Energy Information Administration in the most recently published *Early Release Overview of the Annual Energy Outlook* by the price of imported low-sulfur light crude oil in nominal dollars or the spot price of natural gas at the Henry Hub in nominal dollars, as applicable, for the preceding calendar year as stated in the same report.

Prohibits the price for the interest used in the second through the sixth calendar year of the appraisal from reflecting an annual escalation or de-escalation rate that exceeds the average annual percentage change from 1982 to the most recent year for which the information is available in the producer price index for domestically produced petroleum or for natural gas, as applicable, as published by the Bureau of Labor Statistics of the United States Department of Labor.

Requires that the price for the interest used in the sixth calendar year of the appraisal be used in each subsequent year of the appraisal.

Requires the comptroller by rule to develop and distribute to each appraisal office appraisal manuals that specify the formula to be used in computing the limit on the price for an interest used in the second through sixth year of an appraisal and the methods and procedures to discount future income from the sale of oil or gas from the interest to present value. Requires each appraisal office to use the formula, methods, and procedures specified by the appraisal manuals.

Right to a New Hearing Before an Appraisal Review Board—S.B. 1546

by Senator Patrick—House Sponsor: Representative Murphy

Current law does not provide a property owner or the owner's representative the opportunity to have a new hearing before an appraisal review board if the owner or representative fails to appear for a hearing. This bill:

Entitles a property owner or an agent of an owner who fails to appear for a hearing before an appraisal review board to request a new hearing if the property owner or the owner's agent files with the appraisal review board, not later than the fourth day after the date the hearing occurred, a written statement showing good cause for the failure to appear and requesting a new hearing.

Tax-Free Sales for Firefighter and Emergency Services Organizations—S.B. 1927

by Senators Zaffirini and Uresti—House Sponsor: Representative Garza

Texas has recently experienced a series of large and devastating wildfires. Nonprofit volunteer fire departments are among those battling these fires. These exceptional fires have taxed the financial resources of many departments, who depend on fundraisers and donations for much of their operating revenue. This bill:

Authorizes an organization that qualifies for an exemption under Section 151.310(a)(4) (relating to a company, department, or association for the purpose of answering fire alarms and other related services), Tax Code, notwithstanding Section 151.310(c) (relating to holding tax-free sales or auctions by certain organizations), Tax Code, to hold 10 tax-free sales or auctions during a calendar year. Authorizes each tax-free sale or auction to continue for not more than 72 hours.

Provides that the storage, use, or consumption of a taxable item that is acquired from a qualified organization at a tax-free sale or auction and that is exempted from the taxes imposed by Chapter 151 (Limited Sales, Excise, and Use Tax), Subchapter C (Imposition and Collection of Sales Tax), Tax Code, is exempted from the use tax imposed by Chapter 151, Subchapter D (Imposition and Collection of Use Tax), Tax Code, until the item is resold or subsequently transferred.

Homestead Exemption for the Surviving Spouse of a Totally Disabled Veteran—S.J.R. 14

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

Current law does not adequately address the issue of the extent to which a residence homestead exemption claimed by a totally disabled veteran who qualified for such exemption from property taxes on the veteran's homestead on the basis of that disability may be claimed by the veteran's surviving spouse on the veteran's death. This bill:

Authorizes the legislature by general law to provide that the surviving spouse of a 100 percent or totally disabled veteran who qualified for an exemption in accordance with Section 1-b(i) (relating to authorizing the legislature to exempt from ad valorem taxation all or part of the market value of the residence homestead of a disabled veteran who meets certain requirements), Article VIII, Texas Constitution, from ad valorem taxation all or part of the market value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption from

ad valorem taxation 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 the residence homestead of the surviving spouse.

Authorizes the legislature by general law to provide that if a surviving spouse who qualifies for an exemption in accordance with Section 1-b(j), Article VIII, Texas Constitution, subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the former homestead in accordance with Section 1-b(j), in the last year in which the surviving spouse received an exemption in accordance with that subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

Moving Vehicle Striking Adjacent Highway Structures—H.B. 42*by Representative Menendez—Senate Sponsor: Senator Van de Putte*

Currently, a motor vehicle operator who damages a permanent or semi-permanent structure such as a building, house, or fence, and who leaves the scene of the accident, is not criminally liable. Furthermore, an operator who damages such property is not required to give or leave the operator's contact information. This bill:

Requires the operator of a vehicle involved in an accident resulting only in damage to a structure adjacent to a highway or a fixture or landscaping legally on or adjacent to a highway to: take reasonable steps to locate and notify the owner or person in charge of the property of the accident and of the operator's name and address and the registration number of the vehicle the operator was driving; if requested and available, show the operator's driver's license to the owner or person in charge of the property; and report the accident.

Provides that failure to comply with the bill's provisions is a Class C misdemeanor if the damage is less than \$200 and a Class B misdemeanor if the damage is \$200 or more.

Purchase of Food Items Used During Peace Officer Training—H.B. 78*by Representative Flynn—Senate Sponsor: Senator Williams*

Certain state law enforcement agencies contend that current statutes do not adequately address the ability of certain state law enforcement agencies or the adjutant general's department to use appropriated funds to purchase food for certain training events. Because of this, per diem payments are made, which often results in greater costs to the entity and in lost training time as training participants must leave the training location for meals. This bill:

Authorizes the Texas Forest Service (TFS), subject to the approval of the director of TFS, to use appropriated funds to purchase food and beverages for training functions required of TFS peace officers.

Authorizes the Department of Public Safety of the State of Texas (DPS), subject to the public safety director's approval, to use appropriated funds to purchase food and beverages for training functions required of DPS officers.

Authorizes the adjutant general's department, subject to the adjutant general's approval, to use appropriated funds to purchase food and beverages for training functions required of the military police of the state military forces.

Authorizes the Texas Parks and Wildlife Department (TPWD), subject to the approval of the executive director of TPWD, to use appropriated funds to purchase food and beverages for training functions required of TPWD officers.

Issuance and Suspension of Hardship Driver's Licenses—H.B. 90*by Representative Cook—Senate Sponsor: Senator Birdwell*

Section 521.223 (Hardship License), Transportation Code, allows DPS to issue a minor a hardship driver's license if the applicant shows: that denial of the license will result in unusual economic hardship for the applicant's family; the license is necessary because of an illness of a family member; or the applicant needs a license because of enrollment in a vocational education program.

The applicant must be at least 15 years of age and have passed a driver's education course and passed the DPS driver's examination. An applicant must be at least 14 years old to be eligible to enroll in the driver's education course. There is concern that these drivers are not adequately trained before becoming licensed drivers. This bill:

Requires DPS to suspend a hardship license if the holder of the license is convicted of two or more moving violations committed within a 12-month period.

Repeals Section 521.223(d), Transportation Code, which authorized DPS, if it determines that an applicant must assist in the responsibilities imposed by a family illness, disability, death-related emergency, or economic emergency, to waive the driver training course requirement and to issue a temporary license; and provided that a temporary license issued under this subsection is valid for 60 days after the date of issuance and may be renewed for additional 60-day periods as long as the condition continues.

Lowering Prima Facie Speed Limits at Vehicular Accident Reconstruction Site—H.B. 109

by Representative Brown—Senate Sponsor: Senator Ogden

Municipalities have raised concern about their inability to lower speed limits temporarily during an accident investigation. Having the ability to temporarily lower speed limits could eliminate delays and streamline administrative processes to make necessary arrangements for accident reconstruction investigations. This bill:

Authorizes the governing body of a municipality by ordinance to give a designated official, with transportation engineering experience establishing speed limits, discretion to temporarily lower a prima facie speed limit for a highway or part of a highway in the municipality, including a highway of the state highway system, at the site of an investigation using vehicular accident reconstruction.

Authorizes a county commissioners court by order to give a designated official, with transportation engineering experience establishing speed limits, discretion to temporarily lower prima facie speed limits for a county road or highway outside the boundaries of a municipality at the site of an investigation using vehicular accident reconstruction.

Provides that this authority does not include a road or highway in the state highway system. Requires the Texas Department of Transportation (TxDOT) to develop safety guidelines for the use of vehicular accident reconstruction investigations.

Requires a municipality, county, or designated official to comply with the guidelines.

Authorizes a designated official to temporarily lower prima facie speed limits without the approval of, or permission from, TxDOT.

Requires a designated official who intends to temporarily lower a prima facie speed limit at the site of an investigation using vehicular accident reconstruction to, at least 48 hours before temporary speed limit signs are posted for the vehicular accident reconstruction site, provide to TxDOT a notice that includes: the date and time of the accident reconstruction; the location of the accident reconstruction site; the entities involved at the site; the general size of the area affected by the site; and an estimate of how long the site will be used for the accident reconstruction.

Provides that this temporary speed limit is a prima facie prudent and reasonable speed limit enforceable in the same manner as other prima facie speed limits established under other provisions of this subchapter; and supersedes any other established speed limit that would permit a person to operate a motor vehicle at a higher rate of speed.

Requires a designated official who temporarily lowers a speed limit to: place and maintain at the vehicular accident reconstruction site temporary speed limit signs that conform to the manual and specifications contained in statute; temporarily conceal all other signs on the highway segment affected by the vehicular accident reconstruction site that give notice of a speed limit that would permit a person to operate a motor vehicle at a higher rate of speed; and remove all temporary speed limit signs placed and concealments of other signs placed when the official finds that the

vehicular accident reconstruction is complete and all equipment is removed from the vehicular accident reconstruction site.

Provides that a temporary speed limit is effective when a designated official places temporary speed limit signs and conceals other signs that would permit a person to operate a motor vehicle at a higher rate of speed.

Provides that a temporary speed limit established is effective until the designated official finds that the vehicular accident reconstruction is complete; and removes all temporary signs, concealments, and equipment used at the vehicular accident reconstruction site.

Authorizes TxDOT, if a designated official does not comply with the bill's requirements for a vehicular accident reconstruction on a state highway associated with the reconstruction, to remove signs and concealments.

Life Preserving Devices on Recreational Vessels—H.B. 308

by Representative Menendez—Senate Sponsor: Senator Watson

Federal regulations currently require a recreational vessel that is more than 16 feet in length, with certain exceptions, to have a personal flotation device for each person on board, as well as at least one Type IV personal flotation device. This bill:

Requires that a motorboat, including a motorboat carrying passengers for hire, carry at least one wearable personal flotation device, life belt, ring buoy, or other device, of the sort prescribed by the regulations of the commandant of the United States Coast Guard (USCG) for each person on board, so placed as to be readily accessible.

Requires the operator of a motorboat less than 26 feet in length, while underway, to require every passenger under 13 years of age to wear a wearable personal flotation device of the sort prescribed by the regulations of the commandant of USCG.

Prohibits a person from operating a recreational vessel 16 feet or more in length unless the vessel is equipped with the number of wearable personal flotation devices and additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of USCG.

Requires a person under 13 years of age on board a vessel described by Section 31.073(a) or (b) to wear a wearable personal flotation device of the sort prescribed by the commandant of USCG while the vessel is under way.

Prohibits an adult operator of a certain paddle vessels, including canoes, punts, rowboats, sailboats, rubber rafts, racing shells, rowing sculls, kayaks, and other paddle craft from permitting a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device as required by the bill.

Exempts all canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown from all safety equipment requirements except each vessel is required to have one Coast Guard-approved wearable personal flotation device, rather than lifesaving device, for each person aboard; and the lights prescribed by the commandant of USCG for vessels and required under Section 31.064 (Lights).

Requires that canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, or oared, or windblown vessels, except a canoe or kayak that is 16 feet or more in length, be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of USCG.

Exempts racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race from all safety equipment requirements except the lights prescribed by the commandant of USCG for vessels and required under Section 31.064.

Designation of Corporal David Slaton Memorial Highway—H.B. 314

by Representative Hardcastle—Senate Sponsor: Senator Estes

Corporal David Slaton of DPS was killed in the line of duty on September 20, 2010, in Montague County. The trooper was a popular figure in the area known for his good humor and jovial personality. As a show of respect, the Montague County Commissioners Court requested, and TXDOT subsequently approved, the naming of a section of United States Highway 81 in honor of Trooper Slaton. This bill:

Amends the Transportation Code to designate a section of United States Highway 81 the Corporal David Slaton Memorial Highway.

Recording of a Motor Vehicle Accident Involving a Peace Officer—H.B. 343

by Representative Fletcher—Senate Sponsor: Senator Huffman

Current statute prevents DPS from including in the driver's license record of a person employed as a peace officer, firefighter, or emergency medical services employee any accident that occurs during an emergency while the person is operating an official vehicle in the course and scope of the person's duties. There is not a similar exemption for minor accidents that result in little or no damage during the person's course and scope of duties. This bill:

Prohibits the record of a license holder who is employed as a peace officer, firefighter, or emergency medical services employee of this state, a political subdivision of this state, or a special purpose district from including information relating to a traffic accident that occurs, rather than occurs during an emergency, while the peace officer, firefighter, or emergency medical services employee is driving an official vehicle in the course and scope of the license holder's official duties if the traffic accident resulted in damages to property of less than \$1,000; or an investigation of the accident by a peace officer, other than a peace officer involved in the accident, determines that the peace officer, firefighter, or emergency medical services employee involved in the accident was not at fault.

Requires that an accident report form prepared by DPS require sufficiently detailed information to disclose the cause and conditions of and the persons and vehicles involved in an accident if the form is for the report to be made by a person involved in or investigating the accident; include a way to designate and identify a peace officer, firefighter, or emergency medical services employee who is involved in an accident while driving a law enforcement vehicle, fire department vehicle, or emergency medical services vehicle while performing the person's duties; require a statement by a person as to the nature of the accident; and include a way to designate whether an individual involved in an accident wants to be contacted by a person seeking to obtain employment as a certain type of professional.

Designation of the Chisholm Trail Parkway—H.B. 367

by Representatives Orr and Shelton—Senate Sponsor: Senator Davis

Current law designates only the southern portion of soon-to-be-built State Highway 121 as the Chisholm Trail Parkway. This bill:

Designates State Highway 121 from Interstate Highway 30 to United States Highway 67 as the Chisholm Trail Parkway.

Protecting Stopped Tow Truck Drivers—H.B. 378

by Representative Guillen—Senate Sponsor: Senator Williams

Tow truck operators are often the first ones at an accident scene and are often the only responders at an incident scene such as a break-down or flat-tire. Towing professionals are at risk of being struck by motorists on the side of the road when assisting an accident or broken down vehicle, with an average of one tow operator is killed each week in the United States while providing service to a motorist. In addition to these hazardous conditions there is a need to restrict tow trucks motor vehicle lamps in order to protect the public. This bill:

Requires an operator, on approaching a stationary authorized emergency vehicle using visual signals or a stationary tow truck unless otherwise directed by a police officer, to vacate the lane closest to the emergency vehicle or tow truck when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle or tow truck; or slow to a speed not to exceed 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more, or five miles per hour when the posted speed limit is less than 25 miles per hour.

Requires a motor vehicle lamp or illuminating device, other than a headlamp, spotlight, auxiliary lamp, turn signal lamp, or emergency vehicle, tow truck, or school bus warning lamp, that projects a beam with an intensity brighter than 300 candlepower to be directed so that no part of the high-intensity portion of the beam strikes the roadway at a distance of more than 75 feet from the vehicle.

Proper Identification of Boats and Outboard Motors—H.B. 384

by Representative Menendez—Senate Sponsor: Senator Wentworth

Some have raised concern that the prohibited use of a registration decal for certain vessels, although currently addressed in law, remains an issue. This bill:

Prohibits any person from displaying on a vessel a registration decal that is altered, fraudulent, or issued under a certificate of number assigned to another vessel.

Prohibits any person from intentionally selling, offering to sell, or purchasing a vessel with a hull identification number, or an outboard motor with a serial number, that has been altered, defaced, mutilated, or removed.

Provides that a person who intentionally sells, offers to sell, or purchases a vessel with a hull identification number, or an outboard motor with a serial number, that has been altered, defaced, mutilated, or removed commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Overweight and Oversize Permits—H.B. 422

by Representative Guillen—Senate Sponsor: Senator Williams

Currently, a consolidated overweight and oversize permit is not issued to a motor carrier to transport multiple loads of the same commodity if all loads are traveling between the same general locations. The Transportation Code currently provides for annual permits; however, these permitted motor carriers cannot exceed 12 feet in width, 14 feet in height, 110 feet in length; or 120,000 pounds gross weight.

A motor carrier company transporting wind turbine poles from one part of the state to another was required to purchase 6,000 single trip permits for over-length loads. This bill:

Authorizes TxDOT to issue a permit that authorizes the operation of a commercial motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles,

that exceeds the maximum weight limit as set by TxDOT due to the presence of an auxiliary power unit that allows the vehicle to operate on electricity or battery power if TxDOT finds that such an exemption would reduce nitrogen oxide emissions.

Authorizes the Texas Transportation Commission (TTC) by rule to authorize TxDOT to issue a permit to a motor carrier to transport multiple loads of the same commodity over a state highway, if all of the loads are traveling between the same general locations.

Prohibits TTC from authorizing the issuance of a permit that would allow a vehicle to violate federal regulations on size and weight requirements; or transport equipment that could reasonably be dismantled for transportation as separate loads.

Requires TTC rules to require that, before TxDOT issues a permit under this section, TxDOT determine that the state will benefit from the consolidated permitting process; and complete a route and engineering study that considers the estimated number of loads to be transported by the motor carrier under the permit; the size and weight of the commodity; available routes that can accommodate the size and weight of the vehicle and load to be transported; the potential roadway damage caused by repeated use of the road by the permitted vehicle; any disruption caused by the movement of the permitted vehicle; and the safety of the traveling public.

Authorizes TTC rules to authorize TxDOT to impose on the motor carrier any condition regarding routing, time of travel, axle weight, and escort vehicles necessary to ensure safe operation and minimal damage to the roadway.

Authorizes a permit issued under this section to provide multiple routes to minimize damage to the roadways.

Requires TTC to require the motor carrier to file a bond in an amount set by TTC, payable to TxDOT and conditioned on the motor carrier paying to TxDOT any damage that is sustained to a state highway because of the operation of a vehicle under a permit issued under this section.

Requires that an application for a permit under this section be accompanied by the permit fee established by TTC for the permit, not to exceed \$9,000.

Requires TxDOT to send each fee to the comptroller of public accounts (comptroller) for deposit to the credit of the state highway fund.

Requires TTC rules, in addition to the fee established by TTC, to authorize TxDOT to collect a consolidated permit payment for a permit in an amount not to exceed 15 percent of that fee to be deposited to the credit of the state highway fund.

Authorizes the executive director of TxDOT or the executive director's designee to suspend a permit issued under this section or alter a designated route because of a change in pavement conditions; a change in traffic conditions; a geometric change in roadway configuration; construction or maintenance activity; or emergency or incident management.

Provides that a violation of this permit is subject to the administrative sanctions.

Authorizes TxDOT, if on completion of a route and engineering study TxDOT determines that the additional length can be transported safely, to issue to a person a single trip permit that allows the person to operate, over a highway in this state, super heavy or oversize equipment exceeding a certain length limitation and that may be used in conjunction with an annual permit issued under that subsection.

Rural and Urban Transit Districts Powers—H.B. 423

by Representative Guillen—Senate Sponsor: Senator Williams

Current law governing the additional powers of a rural or urban transit districts grants a transit district the power to contract with any governmental agency, private individual, or corporation. However, additional powers relating to a transit district's transportation system are not addressed. This bill:

Authorizes 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, except that the rules are prohibited from relating to Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code.

Commercial Vehicle Fees—H.B. 441

by Representative Guillen—Senate Sponsor: Senator Williams

Provisions of law relating to semitrailer registration and fees are found in two chapters of the Transportation Code. Currently, in-state registered motor carriers pay \$15 more for a token trailer registration to operate under specific tolerance permit than carriers that have trailer registration in another state, such as Louisiana or Oklahoma, which does not charge an additional token trailer registration to use the permit. By placing an added amount onto the base fee of a 2060 permit, out-of-state registered vehicles will now be placed on a level playing field with in-state vehicles by having to purchase the same permit. This bill:

Provides that the fee for registration of a semitrailer regardless of the date the semitrailer is registered is \$15 for a registration year.

Provides that to qualify for a specific tolerance permit a base permit fee of \$90, rather than \$75, as well as any additional fee required by Section 623.0111 (Additional Fee for Operation of Vehicle Under Permit), and any additional fee set by TxDOT under Section 623.0112 (Additional Administrative Fee) must be paid.

Requires the comptroller to deposit \$40, rather than \$25, of each base fee, plus each fee collected under Section 623.0112, to the credit of the state highway fund.

Reporting Boating Accidents—H.B. 555

by Representative Donna Howard—Senate Sponsor: Senator Watson

Under current Texas law, TPWD is required to report to USCG any boating accident that results in property damage of \$500 or more, as reported to TPWD by boat operators and marine safety enforcement officers. Current federal regulations, however, require USCG to collect data about boating accidents that result in property damage of \$2,000 or more, and so USCG rejects all boating accident reports from TPWD that do not meet the \$2,000 federal threshold. Continuing to require boat operators and enforcement officers in Texas to report boating accidents to TPWD at the state's \$500 threshold creates an inefficient use of time and manpower. This bill:

Requires 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 an amount set by the Texas Parks and Wildlife Commission (commission) of not less than \$2,000, rather than damage to property in excess of \$500, to report to TPWD, rather than to file with TPWD, on or before the expiration of 30 days after the incident a full description of the collision, accident, or casualty in accordance with regulations established by TPWD.

Requires a marine safety enforcement officer to provide to TPWD, on a form prescribed by TPWD, a report of any incident the officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated.

Requires the officer to provide the report not later than the 15th day after the date the officer initially became aware of the incident, rather than not later than the 15th day after the date the incident occurred.

Repeals Section 24(g) (relating to establishing penalties for the failure to stop and render aid or to give certain information in an accident on public water and for failure to make required accident reports), Water Safety Act (Article 9206, V.T.C.S.), as added by Section 1, Chapter 48 (H.B. 146), Acts of the 64th Legislature, Regular Session, 1975.

Requires the commission to adopt rules required to implement provisions contained in this bill, not later than December 1, 2011.

License Plate for Bronze Star Medal and Bronze Star Medal with Valor—H.B. 559

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

Current law provides for specialty license plates to be issued for Purple Heart recipients and Distinguished Flying Cross medal recipients. Bronze Star Medal recipients are considered to have demonstrated extraordinary service in the performance of exceptionally meritorious conduct and achievement.

Such service may warrant recognition in the form of a specialty license plate similar to those provided to Purple Heart recipients and Distinguished Flying Cross medal recipients. However, Bronze Star Medal recipients are not included in the provisions regarding military specialty license plates for extraordinary service. This bill:

Requires the Texas Department of Motor Vehicles (TxDMV) to issue specialty license plates for recipients of the Bronze Star Medal and Bronze Star Medal with Valor.

Designation of a Transportation Reinvestment Zone—H.B. 563

by Representative Pickett et al.—Senate Sponsor: Senator Nichols

Since 2003, local governments have been able to utilize new and innovative methods for delivering much needed transportation infrastructure to their jurisdictions. Current law authorizes local governments to take control of transportation projects through the Pass-through Finance Program. Pass-through financing allows TxDOT to delegate to cities and counties the authority to finance the costs and oversee the construction of needed local road projects and to be reimbursed by the state for those costs over a period of time. Typically, this can accelerate the delivery of a project to a community by many years.

In 2007, with the passage of S.B. 1266, the Texas Legislature authorized cities and counties which intended to complete a pass-through finance project the option of designating an area adjacent to the road project as a transportation reinvestment zone (TRZ). Through a TRZ, the sponsoring entity is allowed to capture a portion of the property tax revenues resulting from the increased property values that occur as a result of the new road project. Those captured revenues can be used to provide needed financing support for the project. By designating an area as a TRZ and entering in a pass-through financing agreement, a local government can take control of its transportation needs; accelerate the construction of needed projects; determine the best method of delivery; and develop a plan for financing of the project, whether it be with its own sources of revenue or partnering with the private sector to finance and deliver the projects. Since the implementation of TRZs modifications have been needed to address issues related to this relatively new finance mechanism. This bill:

Authorizes a municipality or a county to establish a TRZ for any transportation project.

Makes the transportation project in a TRZ subject to oversight by TxDOT.

Requires TxDOT, at the option of the governing body of the municipality, the county, or TxDOT, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection to the municipality or county.

Requires a municipality or a county, once assuming such a project, to enter into an agreement with TxDOT.

Requires that any portion of a transportation project that is on the state highway system or is located in the state highway right-of-way comply with applicable state and federal requirements and criteria for project development, design, and construction, unless TxDOT grants an exception, and be approved by TxDOT.

Prohibits TxDOT from penalizing a municipality or a county with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone.

Stipulates that any funding from TxDOT identified for a project before the date that a zone is designated may not be reduced because the TRZ is designated in connection with that project.

Prohibits TxDOT from reducing any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone.

Authorizes the governing body of a municipality or a county to designate an area as a TRZ and establish a tax increment account.

Authorizes the municipality or county to use a portion of tax increment generated from sales and use taxes imposed for deposit into a tax increment account and to use those funds to pay for authorized projects, tax increment bonds, notes or other obligations, but not for property tax reduction or computation of a county tax rate.

Authorizes the governing body of a municipality or a county to authorize the comptroller to withhold from any payment into the account amounts due that are related to the TRZ.

Requires a municipality or a county to hold a public hearing not later than the 30th day before the date the entity proposes to designate a portion of sales tax increment and not later than the 7th day prior to the hearing, publish a notice in a general circulation newspaper in the county or municipality.

Designation of a Transportation Reinvestment Zone—H.B. 588

by Representative Guillen—Senate Sponsor: Senator Whitmire

In 2003, the 78th Legislature enacted H.B. 3588, which created the Driver Responsibility Program (DRP), a system for identifying drivers who habitually violate traffic laws and assessing surcharges for different kinds of violations. Drivers pay a surcharge to the state if they accumulate a certain number of points or commit certain offenses. The points are based on traffic violations committed after September 1, 2003, including accumulating six or more points from specific moving violations; driving while intoxicated (DWI) or failing a blood alcohol test; driving with a suspended license or without insurance; or driving with no license or an expired license.

The surcharge, which is collected each year for three years, ranges from \$100 for the first six points to \$2,000 for a DWI offense with a blood alcohol test of 0.16 or more. About half of the DRP surcharge is designated for the state's Trauma Facility and EMS Fund, while the rest is used for program administration and for general revenue.

Recently the legislature has authorized DPS to establish a periodic amnesty program and has required DPS to establish a program for indigent drivers and an incentives program allowing the deduction of one point for each year that a driver does not accumulate points.

Currently, under the DRP there is no option for advance payment of the surcharge, which is assessed over 36 months. Notifying the person of the amount the person will owe over the 36-month period, coupled with an advanced payment option, would provide an opportunity for the person to make an informed decision about making a single up-front payment. This bill:

Requires 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 and efforts at rehabilitation, including a reduction of a surcharge or a decrease in the length of an installment plan.

Requires DPS to offer an option for a single up-front payment to a person who is assessed an annual surcharge under this chapter to allow the person to pay in advance the total amount that will be owed for the 36-month period for which the surcharge will be assessed.

Requires that a notice of an initial surcharge imposed contain notice to the driver's license holder of the total amount the person will owe for the 36-month period for which the surcharge will be assessed, and the availability of the advance payment option under this section.

Provides that if a person makes a single up-front payment in the amount specified in the notice and the person is not, in the 36-month period for which the person made the up-front payment, subsequently convicted of an offense requiring a surcharge or an increase in the amount due to DPS, DPS is not required to take any further action related to the surcharge, or annually notify the person of the assessment of the surcharge.

Designating the Kurt David Knapp Memorial Highway—H.B. 591

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

Trooper Kurt David Knapp of DPS was killed while on duty in May, 2004, in an automobile accident on Interstate Highway 10 near Comfort in Kendall County. Twenty-eight years old at the time of his death, Trooper Knapp was raised in Kerrville, graduated from Tivy High School, and received a bachelor of science degree in criminal justice from Southwest Texas State University.

He joined DPS in October 1998, graduated from the training academy in April 1999, and was promoted to the rank of Trooper II in April 2003. His first duty station was Ozona, and he was transferred to Fredericksburg in June 2003. He received several commendations during his career. He was survived by his wife, daughter, and son. This bill:

Provides that the portion of Interstate Highway 10 in Kendall County beginning with mile marker 522 and ending at mile marker 535 is designated as the Trooper Kurt David Knapp Memorial Highway.

Requires TxDOT to design and construct markers indicating the highway number, the designation as the Trooper Kurt David Knapp Memorial Highway, and any other appropriate information; and erect a marker at each end of the highway and at appropriate intermediate sites along the highway only if a grant or donation is given for that purpose.

Operating a Motorboat in a Circular Course—H.B. 596

by Representative Parker—Senate Sponsor: Senator Harris

An advisory panel on recreational boating safety was recently created to study the current state of recreational safety on public waters in Texas and to make recommendations for improving safety. The panel recommended to the legislature prohibiting a person from operating a motorboat in a circular motion around another boat that is towing a person engaged in waterskiing or a similar activity, because such a maneuver is dangerous for all parties involved and has resulted in injury accidents and fatalities on public waterways. This bill:

Prohibits a person from operating a motorboat in a circular course around any other boat or personal watercraft any occupant of which is engaged in fishing, waterskiing, or a similar activity; or any person swimming.

Provides this bill does not apply to 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.

Environmental Review Process for Transportation Projects—H.B. 630

by Representatives Pickett and Wayne Smith—Senate Sponsor: Senator Nichols

The environmental review process for transportation projects, set in place by the National Environmental Policy Act (NEPA), serves a good purpose yet sometimes slows project delivery. Some of these delays are unnecessary and the process might be improved with legislative and administrative changes. Although the state cannot address many of the procedures involved with projects using federal dollars, there are opportunities to make the state process more efficient. This bill:

Authorizes TxDOT, a county, regional tollway authority, or a regional mobility authority to enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for TxDOT transportation projects.

Requires each entity to make each agreement available on the entity's Internet website.

Requires TxDOT to establish, by rule, a process to certify district environmental specialists to work on all documents related to state and federal environmental review processes and to make the process available to TxDOT employees.

Requires the certification process to require continuing education for recertification. The bill would require a memorandum of understanding (MOU) between TxDOT and certain state agencies to specify a time period not to exceed 45 days during which a state agency reviews and provides comments to TxDOT regarding the environmental, historical, or archeological effect of a highway project.

Requires TxDOT, by rule, to establish procedures for coordinating with state agencies in carrying out the responsibilities under such MOUs.

Requires TPWD to provide recommendations and information in response to a TxDOT request for comments no later than 45 days after the date TPWD receives the request.

Requires TTC by rule to set standards for processing an environmental review document for a transportation project pursuant to certain guidelines established by the bill.

Authorizes a political subdivision to submit a document for review by TxDOT for a project contained in the financially-constrained portion of the state transportation improvement program (STIP) or the unified transportation program (UTP) or a project that is identified by TTC as being eligible for participation.

Authorizes a sponsor to develop an environmental review document for a project that is not identified in the STIP or UTP by submitting a notification to TxDOT that the sponsor will prepare the document and paying a fee in an amount established by TTC rule and in an amount not to exceed the actual cost of reviewing the document.

Requires a local government sponsor to prepare a detailed scope of the project in collaboration with TxDOT before TxDOT may process the environmental review document.

Requires TxDOT to determine whether environmental review documents submitted by a sponsor are administratively complete and ready for technical review within 20 days of the date the sponsor submits the documents to TxDOT for review.

Requires TxDOT to submit reports to TTC and the legislature identifying the status of each project being processed under the review process established by the bill and to publish and regularly update project status information on the TxDOT website.

Production and Use of a Recreational Water Safety Instructional Video—H.B. 673

by Representative Parker—Senate Sponsor: Senator Harris

TPWD provides boater education through classroom courses offered in several cities in the state as well as through online and home video courses. Special accommodations are offered for Spanish speakers and the hearing impaired. TPWD also educates the public about boating and water safety through information and guidance listed on its website.

The Texas Advisory Panel on Recreational Boating Safety was created by H.B. 3108, enacted by the 81st Legislature during the 2009 regular session. In its report, the panel recommended the production of a video for water safety instruction that would be made available to the public and as a part of driver's education curriculum. This bill:

Requires the TPWD to produce a video suitable for use with high school students on recreational water safety.

Requires that the video include instruction on safe participation in recreational activities in, on, or around the lakes, rivers, and coastal waters of this state.

Requires TPWD to notify the Texas Education Agency (TEA) in writing when the recreational water safety video is available for TEA's use.

Authorizes TPWD to edit the content of the recreational water safety video to produce a boater education video that complies with federal standards for boating education courses published by the National Association of State Boating Law Administrators.

Requires TEA by rule to incorporate a curriculum module on recreational water safety into driver education instruction using the video on recreational water safety produced provided in the bill when TEA is notified that the video is available.

Abandoned and Discarded Aircraft and Vessels—H.B. 787*by Representative Kuempel—Senate Sponsor: Senator Wentworth*

Currently, a law enforcement agency has the authority to take an abandoned motor vehicle, watercraft, or outboard motor into custody and provide for the public sale of the property if the current owner fails to claim the property. An abandoned aircraft, however, is not included among the motor vehicles a law enforcement agency is authorized to take into custody. This bill:

Authorizes a law enforcement agency to remove, preserve, store, and dispose of abandoned aircraft, and to collect reasonable fees for storage for not more than 10 days.

Provides that if the abandoned motor vehicle is not claimed, the owner or lienholder waives all rights and consents to the sale of the item with proceeds going towards the cost of the auction and other related expenses.

Defines a "junked vehicle," which includes a motor vehicle, aircraft, or watercraft that does not have a current license plate, inspection, or a registered federal aircraft identification number.

Authorizes an individual, after seven days, to apply for a certificate of title for an abandoned vessel, which TPWD may process after the applicant meets certain conditions.

Emergency Water Operations During an Extended Power Outage—H.B. 805*by Representative Callegari—Senate Sponsor: Senator Hegar*

In 2009, the 81st Legislature, Regular Session, enacted S.B. 361 to require that certain water utilities located in Harris County ensure the emergency operation of their water systems during an extended power outage as soon as safe and practicable after a natural disaster. Although the bill was intended to apply to utilities in Fort Bend County, the population bracket used did not accurately identify that county. This bill:

Redefines "affected utility" to meet the desired population bracket.

Requires each affected utility described by this bill, not later than November 1, 2011, to submit the information required by Section 13.1396 (Coordination of Emergency Operations), Water Code, to each appropriate county judge and office of emergency management; the Public Utility Commission of Texas; and the division of emergency management of the office of the governor.

Requires each affected utility described by the bill, not later than February 1, 2012, to submit to the Texas Commission on Environmental Quality (TCEQ) the emergency preparedness plan.

Requires each affected utility described by the bill, not later than June 1, 2012, to implement the emergency preparedness plan approved by TCEQ.

Authorizes an affected utility described by the bill to file with TCEQ a written request for an extension, not to exceed 90 days, of the date by which the affected utility is required and to submit the affected utility's emergency preparedness plan or of the date by which the affected utility is required to implement the affected utility's emergency preparedness plan.

Requires TCEQ to approve the requested extension for good cause shown.

Movement of Vehicle When There Is No Traffic Signal—H.B. 885

by Representative Eddie Rodriguez—Senate Sponsor: Senator Watson

A pedestrian hybrid beacon is similar to a traffic light and flashes yellow, turns red so pedestrians can safely cross, and then dims allowing traffic to continue as normal. There is a need for uniform installation of pedestrian crossing lights and freeway entrance control signals. This bill:

Requires an operator of a vehicle facing a traffic-control signal, other than a freeway entrance ramp control signal or a pedestrian hybrid beacon, that does not display an indication in any of the signal heads to stop as if the intersection had a stop sign.

Custom Vehicles and Street Rods—H.B. 890

by Representative Charlie Howard et al.—Senate Sponsor: Senator Davis

For many custom vehicle enthusiasts in Texas, building, maintaining, and enjoying their vehicles is a favorite pastime. These vehicles participate in exhibitions and as parade vehicles and their owners regularly contribute to charity and civic events. This bill:

Requires that the model year and the make of the vehicle, notwithstanding any other provision of this chapter, if TxDMV issues a certificate of title for a custom vehicle or street rod, be listed on the certificate of title and be the model year and make that the body of the vehicle resembles.

Requires that the certificate of title also include the word "replica."

Requires the owner of the custom vehicle or street rod to provide TxDMV with documentation identifying the model year and make that the body of the vehicle resembles.

Requires TxDMV to issue specialty license plates for a motor vehicle that is at least 25 years old or is a custom vehicle or street rod.

Requires that the license plates include the word or words "Classic," "Custom Vehicle," or "Street Rod," or a similar designation, as appropriate.

Provides that, notwithstanding Chapter 547 (Vehicle Equipment), a custom vehicle or street rod eligible to receive license plates under this section is not required to be equipped with a specific piece of equipment unless the specific piece of equipment was required by statute as a condition of sale during the year listed as the model year on the certificate of title.

Requires the owner, on initial registration of a custom vehicle or street rod, to provide proof, acceptable to TxDMV, that the custom vehicle or street rod passed a safety inspection that has been approved by TxDMV.

Requires TxDMV to create a safety inspection process for inspecting custom vehicles and street rods.

Closure of Roadways by Firefighters—H.B. 993

by Representative Eddie Rodriguez et al.—Senate Sponsor: Senator Watson

Currently, firefighters do not have explicit authority to close lanes of traffic in the event of an emergency. As a result, a firefighter may be unable to secure an area in which an accident has occurred, resulting in injury to firefighters. This bill:

Provides that this section applies only to a firefighter who is employed by or a member of a fire department operated by an emergency services district; a volunteer fire department; or a fire department of a general-law municipality.

Authorizes a firefighter, when performing the firefighter's official duties, to close one or more lanes of a road or highway to protect the safety of persons or property.

Requires that the closure be limited to the affected lane or lanes and one additional lane unless the safety of emergency personnel operating on the road or highway requires more lanes to be closed.

Requires the firefighter, in making a closure to deploy one or more authorized emergency vehicles with audible and visual signals that meet certain requirements.

Commercial Vehicle Safety Standards in Certain Municipalities—H.B. 1010

by Representative Bonnen—Senate Sponsor: Senator Jackson

There are certain municipalities whose police officers are eligible to apply for certification to enforce commercial motor vehicle safety standards. However, there are other municipalities, of certain populations and certain locations, whose police officers are not eligible to apply for this certification. This bill:

Provides that a police officer of certain municipalities is eligible to apply for certification under this section, including a police officer from a municipality that is located within 25 miles of an international port, and in a county that does not contain a highway that is part of the national system of interstate and defense highways and is adjacent to a county with a population greater than 3.3 million; or a municipality with a population of less than 8,500 that is the county seat, and contains a highway that is part of the national system of interstate and defense highways.

Alerts Regarding a Person With Intellectual Disabilities—H.B. 1075

by Representative Rodney Anderson et al.—Senate Sponsors: Senators Davis and Zaffirini

The 78th Legislature enacted S.B. 57, which created a statewide AMBER (America's Missing: Broadcast Emergency Response) alert system to track abducted children and return them to safety. The 80th Legislature enacted S.B. 1315, which created a statewide Silver Alert system for missing senior citizens. The network is a cooperative program of the Governor's Office, DPS, TxDOT, and the Texas Association of Broadcasters. When a local law enforcement officer activates an AMBER Alert, DPS issues a notice on the Emergency Alert System, which is relayed to television and radio stations within a 200-mile radius of the kidnapping. DPS also alerts other law enforcement agencies and instructs TxDOT to flash messages on electronic highway signs warning motorists to watch for the suspect's vehicle. Due to the success of the system, there has been interest in adding persons who suffer from intellectual disabilities to the alert system. This bill:

Requires the DPS with the cooperation of TxDOT the office of the governor, and other appropriate law enforcement agencies in this state, to develop and implement a statewide alert system to be activated on behalf of an abducted child or a missing person with an intellectual disability.

Requires DPS, on the request of a local law enforcement agency regarding an abducted child, to activate the alert system and notify appropriate participants in the alert system, as established by rule, if certain conditions exist.

Requires DPS, on the request of a local law enforcement agency regarding a missing person with an intellectual disability, to activate the alert system and notify appropriate participants in the alert system, as established by rule, if the local law enforcement agency receives notice of a missing person with an intellectual disability; the local law enforcement agency verifies that at the time the person is reported missing: the person has an intellectual disability,

as determined according to the procedure provided by Section 593.005 (Determination of Mental Retardation), Health and Safety Code; and the person's location is unknown; the local law enforcement agency determines that the person's disappearance poses a credible threat to the person's health and safety; and sufficient information is available to disseminate to the public that could assist in locating the person.

Authorizes DPS to modify the criteria as necessary for the proper implementation of the alert system.

Requires a local law enforcement agency, before requesting activation of the alert system, to verify that the criteria described have been satisfied.

Requires the local law enforcement agency, on verification of the applicable criteria, to immediately contact DPS to request activation and to supply the necessary information on the forms prescribed by the public safety director (director).

Requires the director to terminate any activation of the alert system with respect to a particular abducted child or a particular missing person with an intellectual disability if the abducted child or missing person is recovered or the situation, rather than the abduction, is otherwise resolved; or the director determines that the alert system is no longer an effective tool for locating and recovering the abducted child or missing person.

Authorizes the director by rule to assign a name other than AMBER to the alert system when the system is activated regarding a missing person with an intellectual disability.

Requires the director to adopt rules and issue directives necessary to implement provisions of this bill.

Authority and Powers of Regional Mobility Authorities—H.B. 1112

by Representative Phillips—Senate Sponsor: Senator Nichols

Current law provides for the creation and operation of regional mobility authorities (RMAs) and authorizes RMAs to study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects. The powers and duties of RMAs are set forth in the Regional Mobility Authority Act (Chapter 370 (Regional Mobility Authorities), Transportation Code) and other provisions of the Transportation Code. If an RMA determines that it has surplus revenue from transportation projects, it must reduce tolls and spend the surplus revenue on other transportation projects in the counties the RMA serves or deposit the surplus revenue to the credit of the Texas Mobility Fund. This bill:

Defines "surplus revenue" to include revenue that exceeds an RMA's payment obligation under a contract or agreement authorized by Chapter 370; and an RMA's costs for building or expanding a transportation project to include payment obligations incurred by the building or expanding of a transportation project. Transportation projects would include building a parking facility and a collection device for parking fees; and improvements in a transportation reinvestment zone.

Authorizes an RMA to participate in the comptroller's state travel management program; and borrow money from TxDOT or any other public or private entity. Under current statute, local governmental entities are authorized to participate in the CPA's contract for travel service.

Grants an RMA powers similar to those granted to TxDOT under Chapter 228, a county under Chapter 284, and a regional tollway authority under Chapter 366 for toll collection and enforcement on RMA turnpikes or other tollway projects developed, financed, constructed, and operated under an agreement with the authority or another entity.

Provides procedures for designation of an authority's board of directors and presiding officers if the authority is created by a municipality.

Requires the governor to appoint an additional director to serve as the presiding officer if the authority is created by a municipality.

Provides that there is no effect if the attorney general issues an opinion that the Texas Constitution, the common law doctrine of incompatibility, or any legal principle would prohibit a member of the governing body of a municipality from serving as a director of an authority.

Specifies that an authority governed under Section 370.2511 as added by this Act may not be dissolved except under certain circumstances as defined by the provisions of the bill.

Offenses for Using Certain Radar Interfering Devices—H.B. 1116

by Representative Harper-Brown et al.—Senate Sponsor: Senator Shapiro

Current law does not restrict the use of Lidar/radar jamming devices. Different than a traditional radar detector, Lidar/radar jamming devices emit a radio frequency signal that interferes with the operation of police Lidar/radar by saturating the receiver with noise or false information. This interference may damage police equipment and hinders the ability of police officers to measure the speed of not only the vehicle equipped with the device, but also other speeding vehicles in the vicinity. These devices are active, rather than passive like traditional detectors. More than 25 states already have laws that prohibit radar jamming devices. This bill:

Prohibits a person, other than a law enforcement officer in the discharge of the officer's official duties, from using, attempting to use, installing, operating, or attempting to operate a radar interference device in a motor vehicle operated by the person.

Prohibits a person from purchasing, selling, or offering for sale a radar interference device.

Provides that a person who uses a radar interference device in a motor vehicle commits an offense.

Provides that an offense in this bill is a Class C misdemeanor.

Veteran Exemption From Identification Fee—H.B. 1148

by Representative Wayne Smith—Senate Sponsors: Senators Hinojosa and Van de Putte

Section 521.426 (Domicile Requirement; Verification), Transportation Code, exempts certain veterans from paying a fee to DPS for a driver's license. To qualify, a veteran must be honorably discharged; have a service related disability of at least 60 percent; and receive federal compensation due to the disability. Currently, a disabled veteran is exempt from paying the fee to obtain a driver's license but is not exempt from paying the fee for obtaining a personal identification certificate from DPS. A disabled veteran who needs official state identification and who may not qualify for a driver's license is required to pay the fee for such identification. This bill:

Exempts an honorably discharged veteran who has a disability rating of at least 60 percent and who receives disability compensation from the federal government from paying the personal identification certificate fee.

Operation of the Trans-Texas Corridor—H.B. 1201

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

In 2002, Governor Perry announced plans for the Trans-Texas Corridor, which called for TxDOT to build 4,000 miles of multimodal corridors connecting major metropolitan areas over two decades. Over the next several years, the project faced a number of setbacks. In 2009, TxDOT announced plans to suspend work on the Trans-Texas Corridor as a whole, focusing instead on key routes contained in the proposal.

Chapter 227 (Trans-Texas Corridor), Transportation Code, contains the primary statutory authorization for the Trans-Texas Corridor. It allows TTC to authorize oversized/overweight vehicles on a segment of the Trans-Texas Corridor if supported by an engineering and traffic study. Also, Section 545.3531 (Authority of TTC to Establish Speed Limits on Trans-Texas Corridor), Transportation Code, allows TTC to establish a reasonable and safe speed limit of 85 miles per hour on certain segments of the Trans-Texas Corridor in order to provide an incentive to use those roadways and for the state to obtain a payment from the toll developer for providing that incentive.

While TxDOT does not currently have the authority to enter into the financing agreement necessary to advance any Trans-Texas Corridor projects, current law does provide all other needed authority. Additionally there is a need to allow certain road segments to increase the speed limits so that expedient travel may occur in rural areas. This bill:

Repeals provisions pertaining to the establishment, development, operation, financing, and acquisition of right-of-way for the Trans-Texas Corridor.

Authorizes TTC to authorize the operation of certain oversized or overweight vehicles on a designated exclusive lane if it is supported by an engineering and traffic study.

Authorizes TTC to establish a speed limit on certain segments of the Trans-Texas Corridor not to exceed 85 miles per hour on a part of the state highway system designed to accommodate travel at that speed.

Transfer of Certain Texas Department of Transportation Property—H.B. 1235

by Representative Schwertner—Senate Sponsor: Senator Ogden

More than 20 years ago, a piece of state-owned land in Williamson County was transferred to TPWD. That land is now a park that is operated and maintained by Williamson County. More recently, TxDOT offered to transfer to TPWD, at no cost, a piece of land that represents an inholding at the site of the park. This bill:

Requires TxDOT, not later than December 31, 2011, to transfer to TPWD the described real property.

Provides that contained within the consideration for the transfer of the land authorized is the requirement that TPWD use the property transferred only for a public park, a purpose that benefits the public interest of the state.

Provides that if TPWD no longer uses the property for a public park, ownership of the property automatically reverts to TxDOT.

Requires TxDOT to transfer the property by an appropriate instrument of transfer, executed on its behalf by the commissioner of the General Land Office.

Requires that the instrument of transfer include a provision that requires TPWD to use the property for a public park, a purpose that benefits the public interest of the state, allows TPWD to lease the described property to the Williamson County Parks and Recreation Department for use as a public park, and indicates that ownership of the

property automatically reverts to TxDOT if TPWD no longer uses the property for a public park; and describe the property to be transferred by metes and bounds.

Sets forth the boundaries of the tract of land that is to be transferred.

Election of the Members of a Certain Board of Port Commissioners—H.B. 1251

by Representative Deshotel—Senate Sponsor: Senator Williams

The election for the Board of Port Commissioners of the Port of Port Arthur Navigation District of Jefferson County is held on the first Saturday of May in each odd-numbered year for a staggered four-year term. Port commissioners in surrounding areas currently serve six-year terms. Lengthening the term of service creates a stable environment by allowing elected officials to gain more experience in governance and time for projects to be completed. This bill:

Requires the Port of Port Arthur Navigation District of Jefferson County (district) to hold an election in the district to elect the appropriate number of port commissioners as required to maintain a full Board of Port Commissioners (board) on the uniform election date in May in each odd-numbered year, rather than to hold an election in the district on the first Saturday of May in each odd-numbered year at which time there shall be elected five (5) port commissioners.

Provides that port commissioners serve staggered six-year terms.

Requires a port commissioner who on the effective date of this act serves on the board to continue in office until a successor is elected and qualified.

Requires port commissioners to serve six-year terms of office beginning with terms of port commissioners elected at the election held in 2013.

Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished.

Provides that the governor, one of the required recipients, has submitted the notice and Act to TCEQ.

Provides that TCEQ has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Voluntary Contribution for the Texas Parks and Wildlife Department—H.B. 1301

by Representatives Guillen and Farias—Senate Sponsor: Senator Eltife

The Legislative Budget Board's *Government Effectiveness and Efficiency Report* (January 2011) examines various ways to increase private contributions for state parks. One recommendation in the report is to provide a mechanism for individuals to make a voluntary contribution for state park operations and maintenance when registering vehicles initially or by renewal. This bill:

Authorizes a person, when the person registers or renews the registration of a motor vehicle under this chapter, to contribute \$5 to TPWD.

Requires TxDMV to include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to indicate the amount that the person is voluntarily contributing to the state parks account; provide an opportunity to contribute to the state parks account in any registration renewal system that succeeds the system in place on September 1, 2011; and provide an opportunity for a person to contribute to the state parks account during the registration renewal process on TxDMV's Internet website.

Authorizes the county tax assessor-collector, if a person makes a contribution under this section and does not pay the full amount of a registration fee, to credit all or a portion of the contribution to the person's registration fee.

Requires the tax county assessor-collector to send any contribution made to the comptroller of public accounts for deposit to the credit of the state parks account.

Authorizes money received by TPWD to be used only for the operation and maintenance of state parks, historic sites, or natural areas under the jurisdiction of TPWD.

Requires TxDMV to consult with TPWD in performing TxDMV's duties regarding this contribution.

Requires the county tax assessor-collector, if a person makes a voluntary contribution at the time the person registers or renews the registration of a motor vehicle but the person does not clearly specify the entity to which the person intends to contribute, to divide the contribution between the entities authorized to receive contributions.

Oversize and Overweight Vehicle Permits for Certain Port Authorities—H.B. 1305

by Representative Bonnen—Senate Sponsor: Senator Huffman

Currently, the Overweight Corridor Program provides an optional procedure for the issuance of a permit by certain port authorities for the movement of oversize or overweight vehicles carrying cargo on certain state highways. Allowing shippers to load containers to their maximum carrying weight helps reduce transportation costs and provides an incentive for ocean carriers and shuttle services to call on those port authorities. This bill:

Provides an optional procedure for the issuance of a permit for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties 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; or bordering the United Mexican States.

Authorizes TxDOT to authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties 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; or bordering the United Mexican States.

Requires TTC, for a permit issued by a port authority located in a county that borders the United Mexican States, with consent of the port authority, to designate the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 or 4, or United States Highways 77 and 83, or using United States Highway 77 and United States Highway 83, East Loop Corridor, and State Highway 4.

Requires TTC, with the consent of the port authority, 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, to designate the most direct route from the intersection of Farm-to-Market Road 523 and Moller Road to the entrance of Port Freeport using Farm-to-Market Roads 523 and 1495; the intersection of State Highway 288 and Chlorine Road to the entrance of Port Freeport

using State Highway 288; and the intersection of State Highway 288 and Chlorine Road to the entrance of Port Freeport using State Highways 288 and 332 and Farm-to-Market Roads 523 and 1495.

Safety Guards or Flaps on Certain Vehicles—H.B. 1330

by Representative Raymond—Senate Sponsor: Senator Zaffirini

Currently, safety flaps are required on all road tractors, trucks, trailers, and truck-tractors used in combination with a semitrailer or semitrailer in combination with a towing vehicle that has at least four tires on the rearmost axle of the vehicle or the rearmost vehicle in the combination. However, a loophole allows tractors, trailers, and truck-tractors with two super singles, or wide-base single tires on the rearmost axle, to bypass the safety flap requirement. This bill:

Requires a road tractor, truck, trailer, truck-tractor in combination with a semitrailer, or semitrailer in combination with a towing vehicle that has at least four tires or at least two super single tires on the rearmost axle of the vehicle or the rearmost vehicle in the combination be equipped with safety guards or flaps that meet certain criteria.

Speed Limits—H.B. 1353

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

According to the National Conference of State Legislatures, Texas is the only state with different day and night speed limits on rural and urban interstates. Texas is also one of a few states that has mandated a different, lesser speed limit for trucks along rural and urban interstates. Speed limits should be set to the safest maximum speed under normal road conditions. This bill:

Authorizes TTC to establish prima facie speed limits up to 75 mph on parts of the state highway system.

Eliminates the 65 mph nighttime speed limit, and eliminates the current truck speed limit on farm-to-market roads.

Requires TxDOT to conceal or remove speed limit signs that do not comply with the provisions of the bill and erect appropriate signs as soon as practicable after the effective date of the bill.

Junked Vehicle—H.B. 1376

by Representative Bohac—Senate Sponsor: Senator Ellis

Current statute concerning classifying a vehicle as "junk" is ambiguous and often interpreted differently by various municipalities. The related statutes need to be cleaned up in order to eliminate the ambiguity and provide continuity. This bill:

Redefines "junked vehicle" to mean a vehicle that is self-propelled and displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate; and is: wrecked, dismantled or partially dismantled, or discarded; or inoperable and has remained inoperable for more than 72 consecutive hours, if the vehicle is on public property, or 30 consecutive days, if the vehicle is on private property.

Requirements to Operate Personal Watercraft and Certain Boats—H.B. 1395

by Representative Parker—Senate Sponsors: Senators Watson and Hegar

Chapter 31 (Water Safety), Texas Parks and Wildlife Code, sets out the state's water safety policy and defines several terms related to water safety. Texas law defines a personal watercraft as a motorboat designed to be operated while the person is sitting, standing, or kneeling on the vessel rather than sitting or standing inside the vessel. A motorboat includes any vessel either propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily attached or is the main cause of propulsion.

Under current law, those under age 16 may not operate either personal watercraft or a motorboat with horsepower of over 15 unless the underage operator is accompanied by an adult or is at least 13 and has successfully completed a boating safety course prescribed and approved by TPWD.

An advisory panel on recreational boating safety was created to study the current state of recreation safety on public waters in Texas and to make recommendations for improving safety. The panel recommended to the legislature the adoption of a phase-in approach to the requirement that all operators of recreational boats complete a boater education course. This bill:

Reduces the age to operate a personal watercraft and a motorboat from 16 to 13, provided the operator is supervised by another person who can lawfully operate the watercraft, is on board when the watercraft is underway, and is at least 18 years of age.

Authorizes a person charged with a Class C Parks and Wildlife Code misdemeanor for failing to have a vessel operator's license, to make to the court, not later than the 10th day after the date of the alleged offense, an oral or written motion requesting permission to take a boater education course approved by TPWD or a vessel operator's licensing course provided by USCG.

Requires the court to defer the proceedings brought against a person who makes a motion described by this subsection and allows the person 90 days to present written evidence that the person has successfully completed the course approved by TPWD or provided by USCG.

Requires the court, if the person successfully completes the course and the court accepts the presented evidence, to dismiss the charge.

Provides that a person is not required to have a vessel operator's license if the person holds a master's, mate's, or operator's license issued by USCG; is supervised by a person who is at least 18 years of age and who is otherwise exempt or possesses a boater identification card; is not a resident of this state and has proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by TPWD; is exempt by rule of TPWC as a customer of a business engaged in renting, showing, demonstrating, or testing boats; or is exempt by rule of TPWC.

Requires that the person be on board the watercraft when under way to be considered to be supervising the operator of a watercraft.

Requires TPWC by rule to establish a boater education deferral program.

Requires that the deferral program be available at no cost to boat dealers, manufacturers, and distributors.

Designation of the Veterans Memorial Parkway—H.B. 1409*by Representative Flynn—Senate Sponsor: Senator Deuell*

The contributions of United States veterans to our nation's history places them in an inimitable position. It is fitting that we recognize the great sacrifices they have made. This bill:

Designates State Highway 243 in Van Zandt County between State Highway 198 and State Highway 64 as the Veterans Memorial Parkway.

Requires TxDOT, subject to the availability of funds, to design and construct memorial markers indicating the highway number, the designation as the Veterans Memorial Parkway, and any other appropriate information and to erect a marker at each end of the parkway and at appropriate intermediate sites along the parkway.

Issuance of Titles for Certain Motor Vehicles Subject to Insurance Claims—H.B. 1422*by Representative Truitt—Senate Sponsor: Senator Watson*

Limited methods are available to an insurance company or salvage pool operator for disposing of a motor vehicle that is declared a total loss or has been abandoned at a salvage pool when a properly assigned title cannot be obtained from the owner or lienholder of the vehicle. An insurance company or salvage pool operator cannot dispose of such a vehicle until a title is obtained from TxDMV. This bill:

Authorizes TxDMV to adopt rules to implement certain provisions of the bill.

Sets forth the procedures for the sale of certain motor vehicles by a salvage pool operator.

Stipulates that if a motor vehicle is sold to satisfy the allowable costs incurred by a salvage pool operator and the previous owner of a motor vehicle and the lienholder cannot be identified or located, then any excess proceeds from the sale of the motor vehicle escheat to the state.

Provides that the proceeds are administered by the comptroller and disposed of in the manner provided by Chapter 74 (Report, Delivery, and Claims Process), Property Code.

Offense for Altering a Disabled Parking Placard—H.B. 1473*by Representative Scott—Senate Sponsor: Senator Hinojosa*

The 78th Legislature enacted the provisions of Section 681.0111 (Manufacture, Sale, Possession, or Use of Counterfeit Placard), Transportation Code, relating to the manufacture, sale, possession, or use of counterfeit disabled parking placards. Current law states that only placards that are "similar" to genuine parking placards are considered counterfeit, providing a loophole on the issue of legally issued placards that have been altered upon expiration to give the appearance of being legal. This bill:

Creates a Class A offense if a person alters a genuine disabled parking placard, or knowingly parks a vehicle displaying an altered placard.

Provides that the Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both.

Memorial Signs Program—H.B. 1486

by Representatives Gutierrez and Pitts—Senate Sponsor: Senator Wentworth

Currently, a highway sign placed by TxDOT near the site of a crash to publicly memorialize the victim of an alcohol or controlled substance-related vehicle accident may be posted for one year, and a private memorial may remain indefinitely. Concerns have been expressed that signs posted by TxDOT are not posted long enough to commemorate the victim or raise awareness about the serious issue of drunk driving. This bill:

Increases the length of time for which a sign may be posted under TxDOT's memorial sign program to two years from one year.

Requires TxDOT, during the two-year posting period, to replace a sign posted that is damaged because of TxDOT's negligence.

Provides that Section 201.909, Transportation Code, applies to each memorial sign erected under the program, regardless of whether the sign was erected before, on, or after the effective date of this Act.

Provides that if TxDOT determines or is informed by the applicable federal agency that implementation of the program would result in the loss to TxDOT or this state of federal funds, TxDOT is not required to comply with Section 201.909, Transportation Code, but is required to comply with Section 201.909, Transportation Code, as that section existed immediately before the effective date of this Act; and not later than January 1, 2013, shall submit a report to the lieutenant governor and the speaker of the house of representatives regarding the determination by TxDOT or the applicable federal agency.

Scenic Loop Road—Boerne Stage Road—Toutant Beauregard Road Historic Corridor—H.B. 1499

by Representatives Larson and Anchia—Senate Sponsor: Senator Wentworth

Scenic Loop Road, Boerne Stage Road, and Toutant Beauregard Road are each of ancient lineage. These roads were once trails for historic tribes including Comanche and Lipan Apache, as well as stagecoach routes connecting Leon Springs to Boerne. They were also used to connect several early Texas settlements of German immigrants in the 1920s as part of the "Old Spanish Trail." This bill:

Designates as a historic corridor a part of the Old Spanish Trail automobile highway in Bexar County that consists of Scenic Loop Road, Boerne Stage Road, and Toutant Beauregard Road.

Provides that the corridor is to be known as the "Scenic Loop Road—Boerne Stage Road—Toutant Beauregard Road Historic Corridor."

Disposition of Fines Collected by Certain Counties—H.B. 1517

by Representative Isaac—Senate Sponsor: Senator Hegar

Many smaller municipalities with few revenue sources count on revenue from the disposition of state traffic fines to support maintaining roads and bridges and enforcing highway safety laws. To prevent a municipality from operating a speed trap, the amount of revenue a municipality may retain from fines is based on the municipality's other sources of revenue for the preceding fiscal year. This restriction has a negative impact on municipalities that are effectively deterring motorists who drive at speeds significantly over the speed limit. This bill:

Authorizes counties with a population of less than 5,000 and the commissioners court of the county that by resolution elects to spend the revenue in a manner other than as provided, to retain from fines collected for violations of

highway law an amount equal to 30 percent of the county's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds. Requires a county after retaining that amount, to remit any portion of a fine or special expense collected that exceeded \$1 to the comptroller.

Authorizes a county to use the fine collected from a violation of a highway law as the county determines appropriate.

Requires a county, in any fiscal year that the county retains an amount equal to at least 20 percent of the county's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, to send a copy of the county's financial statement and a report showing the total amount collected from fines and special expenses to the comptroller not later than 120 days after the last day of the county's fiscal year.

Offense of Transporting Household Goods Without Registration—H.B. 1523

by Representatives Phillips and Murphy—Senate Sponsor: Senator Watson

Section 643.253 (Offenses and Penalties), Transportation Code, states that soliciting the transportation of household goods for compensation without properly registering with TxDMV is a misdemeanor punishable by a fine of between \$200 and \$1,000 per violation. Despite oversight by TxDMV, there are reports that the moving industry has many unregulated operators who advertise one rate for services and then charge another, far more exorbitant, rate before unloading a customer's goods. These unregulated operators threaten the integrity of the moving industry as a whole. This bill:

Creates degrees of an offense if a person engages in or solicits the transportation of household goods for compensation without being registered with TxDMV.

Provides that the first offense is a Class C misdemeanor, the second offense is a Class B misdemeanor, and the third offense or more is a Class A misdemeanor.

Provides that a Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both.

Provides that a Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

Provides that a Class C misdemeanor is punishable by a fine of not more than \$500.

Auto Theft and Burglary Prevention—H.B. 1541

by Representative McClendon—Senate Sponsor: Senator Wentworth

Crime prevention advocates say that no correlation exists between grants awarded by the Automobile Burglary and Theft Prevention Authority (ABTPA) and the rate of automobile burglary or theft in the state. In addition, advocates say, grantees determine their own goals and assess their progress in meeting the goals through self-reporting. This bill:

Requires ABTPA to develop and use standard performance measures for each category of grants provided by the authority in order to assess grantee success in achieving the purposes of this article; and ensure that grants are used to help increase the recovery rate of stolen motor vehicles, the clearance rate of motor vehicle burglaries and thefts, and the number of persons arrested for motor vehicle burglary and theft.

Requires ABTPA to allocate grant funds primarily based on the number of motor vehicles stolen in, or the motor vehicle burglary or theft rate across, the state rather than based on geographic distribution.

Requires ABTPA to develop and implement a plan of operation.

Requires the plan of operation to be updated biennially and filed with the legislature on or before December 1 of each even-numbered year.

Authorizes DPS to a statewide motor vehicle registration program

Requires DPS to collect data regarding theft rates and types of motor vehicles enrolled in the program, the recovery rate for stolen motor vehicles enrolled in the program, and the clearance rate of burglaries and thefts of motor vehicles enrolled in the program.

Authorizes 50 percent of each fee collected to be appropriated only to ABTPA and to be used for certain purposes.

Installation of a Speed Feedback Sign by a Property Owners' Association—H.B. 1737

by Representative Bohac—Senate Sponsor: Senator Huffman

Currently, a property owners' association may not install and maintain speed feedback or electronic speed limit signs. A significant number of the property owners' associations in Texas include families with children and want additional tools to secure the safety of children, pedestrians, and cyclists within their respective jurisdictions. This bill:

Authorizes 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 for the placement of the sign; and the association pays for the installation of the sign.

Provides that a property owners' association that installs a speed feedback sign under this section is responsible for the maintenance of the sign.

Operation of Rolling Stock During Emergencies by TxDOT—H.B. 1750

by Representative Darby—Senate Sponsor: Senator Williams

There is concern that TxDOT lacks the authority to lease rail cars and to contract with a rail operator to provide for the emergency transport of grain and perishable products. There is a need for TxDOT to temporarily secure such equipment and enter into a short-term contract with a rail operator on the finding by the executive director of TxDOT that an emergency exists that threatens health, life, or property in the affected area. This bill:

Authorizes the executive director of TxDOT to issue an order authorizing TxDOT to lease rolling stock or contract with a qualified person or rail operator to operate rolling stock if the executive director determines that certain emergency conditions exist that threaten a TxDOT rail facility or the provision of rail services using a TxDOT rail facility or that the conditions threaten health, life, or property in the affected area.

Requires TxDOT to provide notice of such an order in a local newspaper, local television or radio, or by circulating notices or posting signs in the affected area.

Authorizes TxDOT to use any available funds to implement the provisions of the bill, including undedicated state highway funds and any general revenue funds appropriated to TxDOT.

Prohibits TxDOT employees from operating rolling stock.

Requires TxDOT to send a copy of any contract entered into to satisfy the requirements of the bill to the Legislative Budget Board (LBB), in a format determined by the LBB.

State Highway 20 as a Historic Highway—H.B. 1866

by Representative Naomi Gonzalez—Senate Sponsor: Senator Rodriguez

State Highway 20 (SH-20), a 78.1-mile highway that runs from the New Mexico border to Hudspeth County, has a long history as a thriving Texas thoroughfare. A historical designation will lay the foundation to revitalize parts of this historic highway that have experienced severe deterioration over the years. Giving SH-20 this name-only designation will expand access to grants and federal funding to support revitalization and improvement efforts. This bill:

Requires the Texas Historical Commission (THC) to cooperate with TxDOT to designate, interpret, and market SH-20 as a Texas historic highway.

Authorizes THC and TxDOT, to supplement revenue available for SH-20, to pursue federal funds dedicated to highway enhancement.

Prohibits a designation of SH-20 as a Texas historic highway from being construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

Provides that TxDOT is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to TxDOT to cover the cost of the design, construction, and erection of the marker.

Requires that money received to cover the cost of the marker be deposited to the credit of the state highway fund.

Signage Prohibiting Operation of Wireless Device in a School Zone—H.B. 1899

by Representatives Pickett and Margo—Senate Sponsor: Senator Rodriguez

Section 545.425 (Use of Wireless Communication Device; Offense), Transportation Code, requires political subdivisions that want to enforce a prohibition against the use of wireless communication devices while operating a vehicle within school zones to post signs at the entrance to each school crossing zone. Failure to post such signs means the political subdivision cannot enforce the ordinance.

The City of El Paso adopted Ordinance 17286, which banned the use of wireless communications devices within the city limits, effective April 1, 2010. At the time of the adoption of Ordinance 17286, the City of El Paso had not completed installing signs at each school crossing zone. The estimated cost of installation at the average school is approximately \$1,273.78 per school. This placed a financial burden on the City of El Paso. This requirement also made the school zones only place within the City of El Paso where the El Paso Police Department could not issue citations for the use of wireless communications devices while driving. This bill:

Provides that a municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision is not required to post a sign as required if the subdivision posts signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision and that state that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the political subdivision; is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the political subdivision; and is subject to all applicable United States Department of Transportation Federal Highway

Administration rules, or posts a message on any dynamic message sign operated by the political subdivision located on a state highway, U.S. highway, or interstate highway in the political subdivision.

Requires that a sign posted as required by this bill be readable to an operator traveling at the applicable speed limit.

Requires the political subdivision to pay the costs associated with the posting of signs.

Revising the Texas Department of Motor Vehicles Statutes—H.B. 2017

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

TxDMV was created by the 81st Legislature in order to separate the administrative management of permitting and registration of vehicles and trucks from the infrastructure development functions in TxDOT. Generally, the purpose of separating the functions of TxDMV and TxDOT was to increase the efficiency and effectiveness of both agencies in the service of Texas' transportation needs. During its two-year existence, TxDMV has identified several areas of improvement that can be addressed through organizational and functional changes to the agency. This bill:

Updates definitions and provisions relating to the organization, governance, duties and functions of TxDMV.

Authorizes TxDMV to enter into inter-local contracts.

Authorizes TxDMV to conduct public service educational campaigns related to its functions.

Requires TxDMV board advisory committee meetings to be accessible to the public.

Authorizes the TxDMV board to establish rules to provide for the filing of a license application and the issuance of a license by electronic means.

Authorizes the TxDMV board, by rule, to implement an electronic titling system.

Authorizes TxDMV to assess a service charge for a credit card payment, the proceeds of which would be deposited to the State Highway Fund.

Certification of a Person Eligible for Disabled Parking Privileges—H.B. 2080

by Representative Tracy O. King—Senate Sponsor: Senator Uresti

Physicians often practice in a team model, wherein a physician supervises and delegates to physician assistants (PAs) and advance practice nurses (APNs). Under the Occupations Code, licensed PAs and APNs act as agents of a physician. They can only practice medicine under the supervision and delegation of a physician, and have delegated prescriptive authority from their supervising physician. Like a prescription for medication, a prescription for a handicap parking placard is, for some patients, a medical necessity.

During the 81st Legislature, Regular Session, 2009, S.B. 1984 amended the Transportation Code to allow PAs and APNs operating under the delegated prescriptive authority of a licensed physician to write handicapped parking placards in rural counties with a population of 125,000 or less. In urban counties, however, Texas law still bars PAs and APNs from writing these sorts of prescriptions. This bill:

Expands current law to allow TxDMV to accept a notarized statement from a licensed physician assistant acting as the agent of a licensed physician or person acting under the delegation and supervision of a licensed physician along with an initial application for the issuance of a disabled parking placard in any county.

Search For and Rescue of Victims of Water-Oriented Accidents—H.B. 2138

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Game wardens commissioned by TPWD are trained in certain water-related search and rescue operations, and state maritime military volunteers have trained with the game wardens so the volunteers can assist with such operations in time of need. This bill:

Requires all peace officers of this state and all game wardens to be certified as marine safety enforcement officers by TPWD.

Authorizes state military forces to assist game wardens in the search for and rescue of victims of water-oriented accidents.

Water Safety Laws—H.B. 2141

by Representative Guillen—Senate Sponsor: Senator Williams

Game wardens commissioned by TPWC work to create a pleasant, recreational atmosphere for Texas residents and visitors to the state by keeping Texas waterways safe. Establishing that game wardens commissioned by TPWC are the primary enforcement officers responsible for enforcing provisions of law relating to water safety may provide clarity regarding jurisdiction between law enforcement agencies. This bill:

Provides that game wardens commissioned by TPWC are the primary enforcement officers responsible for enforcing provisions related to water safety.

Regional Mobility Authority Agreements—H.B. 2195

by Representative Hartnett—Senate Sponsor: Senator Carona

Under current law, the Dallas Area Rapid Transit Authority (DART) is authorized to enter into multi-year commodity (concrete, copper or steel) or utility service (water, electricity, natural gas, or telecommunications) agreements secured by assets of the authority only when such agreements are limited to a five-year period, unless DART obtains voter approval authorizing longer term agreements. The five-year limit does not prevent DART from entering into a longer term procurement agreement for such services or commodities, provided they are unsecured. It is not clear whether this five-year limitation on secured multi-year commodity or utility service agreements would also apply to the use of financial agreements. Financial hedge agreements are used by DART to reduce the substantial fluctuations in costs that would otherwise occur from year to year. This bill:

Authorizes DART to enter into a financial hedge agreements extending beyond five years when they relate to procurement of commodities and utility services that are unsecured.

Competitive Bidding Regional Transportation Authorities—H.B. 2223

by Representative Yvonne Davis—Senate Sponsor: Senator Carona

Currently, DART and the Fort Worth Transportation Authority (The T) have statutory authority to negotiate a contract without competitive sealed bids or proposals if the amount of the contract is \$25,000 or less. Though the threshold amount has been increased twice by the legislature, the current amount does not allow DART or The T to use simplified acquisition procedures to lower administrative costs and increase efficiency. This bill:

Increases the aggregate amount of a contract from \$25,000 or less to \$50,000 or less to which an executive committee of certain regional transportation authorities would be authorized to negotiate a contract without competitive sealed bids or proposals.

Deferring Suspension or Revocation of a License for Victims of Identity Theft—H.B. 2256

by Representative Phillips—Senate Sponsor: Senator Williams

There are several offenses for which a conviction results in an automatic suspension of the offender's driver's license. Victims of identity theft may have a license suspended for crimes committed by others in the victim's name. This bill:

Authorizes DPS to abate or defer a mandatory suspension or revocation of a license if the license holder presents evidence acceptable to DPS that the license holder is the victim of identity theft and the person against whom a criminal complaint alleging the commission of an offense under Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code, has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

Bidding Requirements for Mass Transportation Authorities—H.B. 2325

by Representative McClendon—Senate Sponsor: Senator Wentworth

Current law allows certain mass transportation authorities to negotiate certain contracts without competitive sealed bids, proposals, or postings if the amount involved in the contract is \$25,000 or less. Some transit authorities have expressed an interest in raising the threshold amount to save additional taxpayer dollars on administrative costs and fees associated with posting smaller procurement contracts. This bill:

Increases the mass transportation authority procurement threshold for non-competitive purchasing from \$25,000 to \$50,000.

Motorbus-only Lane Pilot Program—H.B. 2327 [Vetoed]

by Representative McClendon—Senate Sponsor: Senator Wentworth

Currently, motor buses must use highway lanes to travel even when these lanes are congested. This makes the use of mass transit less functional and appealing. This bill:

Establishes and operates a motor-bus-only pilot lane program for highways in Bexar, El Paso, Travis, and Tarrant counties, in consultation with DPS and in conjunction with and with the elective participation of the appropriate local transit and transportation authorities and the municipalities served by those authorities.

Requires TxDOT to include in the program bus driver safety training, public awareness and education, bus operating rules, and roadside signs and pavement markings.

Requires TxDOT to fund the implementation of the program and require participating mass transit entities to reimburse TxDOT for funds spent on implementation of the program features.

Requires TxDOT to submit a report regarding the pilot program no later than December 31, 2013.

Investments for Ports and Navigation Districts—H.B. 2346

by Representative Bonnen—Senate Sponsor: Senator Huffman

Approximately 15 years ago, the Texas Legislature passed omnibus legislation relating to investment of public funds, which established the authorized investments for governmental entities, including navigation districts that are subject to the law. The legislation also authorized additional investments for institutions of higher education. Currently, institutions of higher education can purchase, sell, and invest funds in negotiable certificates of deposit. Texas ports and navigation districts would like to have the same flexibility to invest in negotiable certificates of deposit that institutions of higher education currently have. This bill:

Authorizes a port or a navigation district to purchase, sell, and invest its funds or funds under its control in negotiable certificates of deposit issued by a bank that has a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Motor Vehicles—H.B. 2357

by Representative Pickett—Senate Sponsor: Senator Williams

The motor vehicle statutes were codified in 1995 and, outside of the enactment of H.B. 3097, 81st Legislature, 2009, which created TxDMV and transferred the functions relating to motor vehicles from TxDOT to TxDMV, there has not been a complete substantive reorganization since that time. This bill:

Reorganizes Chapters 501, 502, 504, and 520, Transportation Code.

Authorizes the board of TxDMV to implement, by rule, an electronic titling system.

Establishes procedures for the recording of documents, the collection and disposition of fees by electronic funds transfer, and allowable fee amounts and service charges.

Repeals sections of the Transportation Code, recodifies new and amended sections, and makes conforming changes.

Requires TxDMV to post a complete schedule of registration fees on the Internet, and to accept electronic payments for registration fees, including transaction fees, or service charges billed to TxDMV by vendors providing services in connection with electronic payments.

Requires the removal of the registration insignia and each license plate on any motor vehicle that is sold or transferred.

Provides that on the sale or transfer of a vehicle to a dealer who holds a general distinguishing number, the registration period remaining at the time of the sale or transfer expires at the time of sale or transfer.

Authorizes a purchaser to obtain a temporary transit permit from TxDMV before driving on a public road.

Requires TxDMV to consult with DPS to conduct a study on the consolidation of similar information collected separately by each agency to be completed no later than September 1, 2012.

Authorizes certain public entities to contract with a private specialty plate vendor to distribute the public entities' portion of funds from certain professional sports team specialty plates in a manner other than provided for in the Transportation Code.

Pledge of Advanced Transportation District Sales and Use Taxes to Bonds—H.B. 2396

by Representative McClendon—Senate Sponsor: Senator Zaffirini

Texas law authorizes an advanced transportation district (ADT) created under provisions of law relating to metropolitan rapid transit authorities to issue bonds at any time and for any amounts the district considers necessary or appropriate for the acquisition, construction, repair, equipping, improvement, or extension of its transit authority system. The district's governing body, by resolution, may authorize the issuance of bonds payable solely from revenue. Authorizing San Antonio to hold an election to create an ADT would allow the city to accelerate current projects, encourage economic growth, and revitalize the existing mass transit system. This bill:

Authorizes the board of an authority in which the sales and use tax is imposed at a rate of one-half of one percent and in which the principal municipality has a population of more than 1.3 million to order an election to create an ADT within the authority's boundaries and to impose a sales and use tax for advanced transportation and mobility enhancement under this subchapter.

Authorizes the governing body of a district by order or resolution and without an election to pledge sales and use tax proceeds for advanced transportation purposes and enter into agreements regarding such projects.

Prohibits the governing body of a district from pledging sales and use tax proceeds unless the board has conducted a public hearing concerning the issuance of the bonds to which the proceeds are pledged and has published notice of the hearing at least 14 days before the date of the hearing in a newspaper of general circulation in the principal municipality of the authority.

Licensing and Operation of Motor Vehicles by Minors—H.B. 2466

by Representative Phillips—Senate Sponsor: Senator Carona

In 2009, the 81st Legislature passed legislation relating to the graduated driver's license program. Since then, it has become evident that there is a need for clarification relating to the prohibition against using a wireless communication device by certain motor vehicle operators and to revise the circumstances under which a school, law enforcement officer, or a student's parent or legal guardian can report a student's truancy to DPS for the revocation of the student's driver's license. This bill:

Prohibits DPS from issuing a driver's license to a person under 18 years of age without the person providing written parental or guardian consent for school administrators or law enforcement personnel to notify DPS if the person has been absent from school for more than 20 consecutive days.

Prohibits persons less than 18 years of age from using a wireless communications device while driving, except in cases of emergency.

Memorial Sign Program for Victims of Motorcycle Accidents—H.B. 2469

by Representative Phillips—Senate Sponsor: Senator Estes

Motorcycle safety awareness for both riders and drivers is an important tool in preventing motorcycle accidents. Certain citizens have worked to initiate programs to educate motorists regarding the importance of watching for motorcyclists, including a program to place crosses on the roadside where fatal motorcycle accidents have occurred. This bill:

Requires TTC by rule to establish and administer a memorial sign program to publicly memorialize the victims of motorcycle accidents.

Authorizes the sign to include the names of more than one victim if the total length of the name does not exceed one line of text.

Sets forth the request procedures for a memorial sign.

Requires TxDOT, if the application meets TxDOT's requirements and the applicant pays the memorial sign fee, to erect a sign.

Authorizes a sign posted to remain posted for one year.

Authorizes TxDOT, at the end of the one-year period, to release the sign to the applicant.

Provides that TxDOT is not required to release a sign that has been damaged.

Requires TxDOT to remove a sign posted that is damaged.

Authorizes TxDOT, to post a new sign if less than one year has passed from the posting of the original sign and a person submits a written request to TxDOT to replace the sign and submits a replacement fee.

Requires TxDOT, during the one-year posting period, to replace a posted sign if the sign is damaged because of TxDOT's negligence.

Authorizes a privately funded memorial to remain indefinitely as long as the memorial conforms to state law and TxDOT rules.

Regulation of Traffic on Certain County Roads—H.B. 2541

by Representative Solomons—Senate Sponsor: Senator Nelson

Section 542.007 (Traffic Regulations: Private Subdivisions in Certain Counties) and Section 542.008 (Traffic Regulations: Private Subdivisions in Certain Municipalities), Transportation Code, allow property owners in a private subdivision in a county with a population of 500,000 or less and a municipality with 300 or more people to petition a county commissioners court to extend traffic rules to roads in the subdivision. The law establishes general requirements for the petition and for an agreement between a private subdivision and a county. Currently, roads in special districts are not subject to any kind of traffic enforcement by the special district, a city, or a county. This bill:

Provides that the bill only pertains to a road owned or maintained by a special district that is located in the unincorporated area of a county with a population of less than one million.

Authorizes the residents of all or any portion of a special district to file a petition with the commissioners court of the county in which the roads are located requesting that county enforcement of traffic rules on county roads be extended to the roads of the district.

Requires that the petition specify the roads over which county enforcement is sought, specify the traffic rules for which county enforcement is sought, and be signed by 50 percent of the property owners residing in the area that is served by the roads of the district over which county enforcement is sought.

Requires the commissioners court, if the commissioners court finds that granting the request is in the interest of the county generally, to by order extend the enforcement of traffic rules by the county to the roads of the district specified in the petition.

Authorizes that the order grant enforcement of some or all traffic rules requested in the petition.

Authorizes the commissioners court, as a condition of extending a traffic rule, to require the special district to pay for all or a part of the costs of extending enforcement to the roads of the district.

Requires the commissioners court to consult with the sheriff to determine the cost of extending enforcement.

Provides that on issuance of an order under this section, the roads specified in the order are considered to be county roads for the purposes of the application and enforcement of the specified traffic rules.

Authorizes the commissioners court to place official traffic control devices on the right-of-way of the roads of the district if those devices relate to the specified traffic rules.

Department of Motor Vehicle Electronic Lien System—H.B. 2575

by Representative Phillips—Senate Sponsor: Senator Harris

Section 501.117 (Electronic Lien System), Transportation Code, requires TxDMV to establish an electronic system for perfecting, assigning, discharging, and canceling security interests in motor vehicle titles. Participation by a lienholder in the system is voluntary by statute.

The electronic lien system has been established and is running well, utilizing a competitive mix of vendors that lienholders use as electronic intermediaries with the system. However, only a fraction of the 2.3 million liens that could be handled by the system each year are being executed through the voluntary system, even though that system can handle substantial increases without new resources.

The enactment of this legislation may lead to reduced costs and improve the titling process by authorizing TxDMV to require participation by a lienholder in the electronic lien system. This bill:

Authorizes TxDMV to establish categories of lienholders who may participate in the agency's electronic lien system.

Requires a lienholder to participate in the system, with the exception of a credit union.

Requires a schedule for compliance for each category of lienholder that is required to participate in the system.

Authority of Municipalities to Lower Speed Limits on Certain Highways—H.B. 2596

by Representative Garza—Senate Sponsor: Senator Wentworth

Dangerous conditions may exist on one-lane public roads in Texas that are used for two-way traffic. Current law allows a municipality to lower the speed limit on certain roads to 25 miles per hour but does not include one-lane roads. However, on certain roads head-on traffic at 25 miles per hour is very dangerous. This bill:

Authorizes the governing body of a municipality to declare a lower speed limit of not less than 25 miles per hour, or not less than 10 miles per hour in a municipality with a population of 2,000 or less under certain conditions.

Requires the governing body of a municipality that declares a lower speed limit on a highway or part of a highway, not later than February 1 of each year, to publish on its Internet website, and submit to TxDOT, a report that compares for each of the two previous calendar years. Sets forth the information to be included in the report.

Eligibility of Disabled Visitors to Use Public Transportation Services—H.B. 2651

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

Currently, public providers of transportation services designed for people with disabilities may require individuals who reside outside of the provider's service area but are visiting in the provider's service area to submit certain documents before services can be rendered. Concerns have been raised that because there is little uniformity in processing such documents, visitors may have to wait days or weeks to obtain access to such transportation services. This bill:

Requires a provider to determine whether an individual who resides outside of the provider's service area and who seeks to use the provider's services while visiting the provider's service area is eligible to use the services not later than two business days after the date the individual gives the provider the appropriate notice and submits and required documentation.

Driver Training Education—H.B. 2678

by Representative Todd Smith—Senate Sponsor: Senator Wentworth

Chapter 1001 (Driver and Traffic Safety Education), Education Code, gives TEA jurisdiction over driver training schools, including those operated by private firms as well as public schools. TEA establishes and reviews curricula for driver education programs, establishes qualifications for instructors, supplies driver education certificates, and oversees other aspects of the driver training school's operations. Concerns have been raised regarding driver education training providers in Texas. This bill:

Requires the Sunset Advisory Commission (SAC), during SAC's review of TEA concerning abolition of TEA 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 jurisdiction and control over those schools.

Requires TEA to provide to each licensed or exempt driver education school driver education certificates or certificate numbers to enable the school, and each approved parent-taught course provider, to print and issue TEA-approved driver education certificates with the certificate numbers to be used for certifying completion of an approved driver education course.

Requires that a certificate printed and issued by a driver education school or DPS-approved course provider be in a form required by TEA, and include an identifying certificate number provided by TEA that may be used to verify the authenticity of the certificate with the driver education school or DPS-approved course provider.

Requires a driver education school or DPS-approved course provider that purchases driver education certificate numbers to provide for the printing and issuance of original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates.

Requires the driver education school or DPS-approved course provider to electronically submit to TEA in the manner established by TEA data identified by TEA relating to issuance of TEA-approved driver education certificates with the certificate numbers.

Requires that certificate numbers be in serial order so that the number on each issued certificate is unique.
Requires TEA by rule to provide for the design and distribution of the certificates and certificate numbers in a manner that, to the greatest extent possible, prevents the unauthorized reproduction or misuse of the certificates or certificate numbers.

Authorizes TEA to charge a fee of not more than \$4 for each certificate or certificate number.

Requires TEA to review the national criminal history record information of a person who holds a driver education instructors license.

Requires TEA to place such a licensee on inactive status for the license holder's failure to comply with a deadline for submitting that information.

Authorizes TEA to allow a person who is applying for a driver education instructor's license and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

Authorizes the commissioner of education (commissioner) to adopt rules to administer provisions in this bill, including rules establishing deadlines for a person to submit fingerprints and photographs in compliance with this section; sanctions for a person's failure to comply with the requirements in this bill, including suspension or revocation of or refusal to issue a license; and notification to a driver education school of relevant information obtained by TEA under this section.

Requires TEA, not later than September 1, 2013, to obtain all national criminal history record information on all holders of driver education instructors' licenses.

Requires the commissioner by rule to require a person submitting to a national criminal history record information review or the driver education school employing the person, as determined by TEA, to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an application for certification under Subchapter B (Certification of Educators), Chapter 21 (Educators), for a national criminal history record information review.

Provides that information collected about a person to comply with providing certain information, including the person's name, address, phone number, Social Security number, driver's license number, other identification number, and fingerprint records and prohibits from being released except to provide relevant information to driver education schools or otherwise to comply with provisions in this bill; by court order or with the consent of the person who is the subject of the information; the information is not subject to disclosure to an open records request and is required 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.

Requires a driver education school to discharge or refuse to hire as an instructor an employee or applicant for employment if TEA obtains information through a criminal history record information review finds a certain criminal history.

Requires TEA to suspend or revoke a driver education instructor's license, to refuse to issue or renew a driver education instructor's license to a person if the person has been convicted of certain offenses.

Provides an exception for the offenses 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.

Authorizes a driver education school to discharge an employee who serves as an instructor if the school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the school or TEA.

Prohibits a driver education instructor license authorizing a person to teach or provide classroom training from being issued unless the person has completed nine semester hours of driver and traffic safety education or a program of study in driver education approved by the commissioner, from an approved driver education school, and holds a teaching certificate and any additional certification required to teach driver education.

Powers of Navigation Districts, Port Authorities, and Certain Municipalities—H.B. 2770

by Representatives Wayne Smith and Callegari—Senate Sponsor: Senator Williams

Texas ports are normally operated by navigation districts, a type of general law district governed by the Water Code. Navigation districts may be created or operated as port authorities but there are exceptions to this for certain districts. This bill:

Authorizes a navigation district, port authority, or board of trustees to conduct a closed meeting to consider proposed changes to facilities or services, or a bid, proposal or contract for goods or services under negotiation, if the release of information would have a detrimental effect on the position of the entity.

Authorizes a navigation district to engage in certain activities, including constructing improvements and leasing oil, gas, and minerals.

Modifies the procedures for the sale of land and the ability to lease, including the ability to contract with a broker to sell a tract of land.

Authorizes a navigation district to enter into a contract with a public facility corporation for the purpose of improvements and to make payments under a contract through the sale of bonds or notes, taxes, or any other income.

Authorizes a navigation district to accept gifts, grants and donations, but requires the district to adopt certain payment procedures.

Requires a district to hold an electronic copy or photocopy of a purchase.

Authorizes a port authority to establish an electronic requisition system.

Authorize a navigation district to establish an employee charitable contribution campaign and provides specific guidelines and procedures for the campaign.

Provides that the Port of Houston Authority is subject to Sunset review and is to be abolished by September 1, 2013, if not continued in existence.

Requires the Port of Houston Authority to promptly pay the costs incurred and determined by the Sunset Advisory Commission for the review.

Powers of the Aransas County Navigation District Regarding Land Purchase—H.B. 2792

by Representative Hunter—Senate Sponsor: Senator Hegar

Current law stipulates that a check or bond accompanying a bid submitted on land to be sold by the Aransas County Navigation District must equal the total asking price for the land. This requirement has created difficulty for the district and potentially limits the number and amounts of bids offered. This bill:

Authorizes the navigation and canal commission of the Aransas County Navigation District to determine the amount of the check or bond a bidder is required to submit with a bid to purchase land from the district to guarantee that the bidder will perform the terms of the purchase bid if it is accepted by the navigation and canal commission of the district.

Restrictions of Certain Motor Vehicles at Shows and Exhibitions—H.B. 2872

by Representative Orr—Senate Sponsor: Senator Davis

Recreational vehicle (RV) and tow truck shows are held on Saturdays and Sundays, but current law stipulate that the vehicles can only be sold on one of those days. Concerns have been raised that the law prohibits prices from being quoted or posted at the shows on the non-sale day. This creates a situation in which a show is approved and legal on a certain day but prices cannot be mentioned either verbally or in writing. This bill:

Authorizes participants at approved RV and tow truck shows to quote prices on both days of a show that runs on Saturday and Sunday.

Vehicles Used For Equine Activities or Livestock Shows—H.B. 2960

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

There have been some concerns that a commercial motor vehicle used to transport livestock to and from equine events and livestock shows, or a vehicle used for seasonal transport of agricultural products, does not fall under provisions of law relating to the registration of commercial motor vehicles used primarily for farm purposes. This bill:

Authorizes a commercial motor vehicle to be registered despite its use for transporting, without charge, the owner or a member of the owner's family for certain purposes, including for the purpose of participating in equine activities or attending livestock shows,

Provides that an owner is not required to register certain vehicles that are used only temporarily on the highways, including a vehicle that is a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively to transport seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage; to transport farm supplies from the place of loading to the farm; or for the purpose of participating in equine activities or attending livestock shows.

Passengers Riding in Watercrafts That are Being Towed—H.B. 2981

by Representative Hunter—Senate Sponsor: Senator Hegar

Under current law it is permissible for motor vehicle operators to allow persons of any age to travel as passengers in or on a towed watercraft. This is dangerous and inconsistent with the restrictions imposed on motor vehicle operators with respect to passengers in the bed of a truck or towed trailer. This bill:

Provides that a person commits an offense if the person operates a motor vehicle on a highway or street when a child younger than 18 years of age is occupying a boat or personal watercraft being drawn by the motor vehicle.

Provides that it is a defense to prosecution that the person was operating the motor vehicle in a parade or in an emergency, or operating the motor vehicle on a beach.

Provides that an offense is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Funding Projects for Certain Intermunicipal Commuter Rail Districts—H.B. 3030

by Representative McClendon—Senate Sponsor: Senator Wentworth

Intermunicipal commuter rail districts were created by the legislature to facilitate the operation of passenger rail service between two or more municipalities, and several districts have been organized by local governments. Funding is needed to facilitate the operation for such rail services. This bill:

Authorizes an intermunicipal commuter rail district (district) to enter into an interlocal contract with one or more local governments for the financing of transportation infrastructure that is constructed or that is to be constructed in the territory of the local government by the districts.

Prohibits the amount that is calculated on the basis of increased ad valorem tax collections that are attributed to increased property values in the zone from exceeding an amount that is equal to 30 percent of the increase in ad valorem tax collections for the specified period.

Authorizes a transportation infrastructure zone of a district established before January 1, 2005, to consist of a contiguous or noncontiguous geographic area in the territory of one or more local governments and requires that it include a commuter rail facility or the site of a proposed commuter rail facility.

Prohibits the amount paid by a local government to a district established before January 1, 2005, from exceeding an amount that is equal to the increase in ad valorem tax collections in the zone for the specified period.

Requires a district established before January 1, 2005, that creates a transportation infrastructure zone to establish a tax increment fund.

Requires that all revenue from the sale of tax increment bonds or notes revenue from the sale of any property acquired as part of a plan adopted to use tax increment financing, and other revenue to be used in implementing the plan, in addition to the amount of tax increment deposited to the tax increment fund, be deposited in the tax increment fund for the zone.

Authorizes a local government member of a district creating a transportation infrastructure zone to issue tax increment bonds or notes, including refunding bonds, secured by revenue in the local government's tax increment fund.

Authorizes that bond proceeds to be used to pay project costs for the zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes.

Provides that tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the transportation infrastructure zone.

Authorizes the local government to pledge irrevocably all or part of the fund for payment of tax increment bonds or notes.

Authorizes that the part of the fund pledged in payment be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid.

Provides that a holder of the bonds or notes or of coupons issued on the bonds has a lien against the fund for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

Provides that a tax increment bond or note is not a general obligation of the local government issuing the bond or note.

Provides that a tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the local government and is not payable except as previously stated.

Provides that a local government's obligation to deposit sales and use taxes into the tax increment fund is not a general obligation of the local government.

Provides that an obligation to make payments from sales and use taxes does not give rise to a charge against the general credit or taxing powers of the local government and is not payable except as previously stated.

Prohibits a tax increment bond or note from being included in any computation of the debt of the issuing local government.

Dealer Agreement Regarding Machinery Used for Agriculture—H.B. 3079

by Representative Darby—Senate Sponsor: Senator Deuell

Texas laws governing the relationship between a dealer of certain equipment used for agricultural, construction, utility, industrial, mining, outdoor power, forestry, and landscaping purposes and the suppliers of such equipment need to be updated to reflect recent developments in those relationships and to conform Texas laws with those of other states. This bill:

Provides that the legislature finds that the retail distribution, sales, and rental of agricultural, construction, industrial, mining, outdoor power, forestry, and lawn and garden equipment through the use of independent dealers operating under contract with the equipment suppliers vitally affect the general economy of this state, the public interest, and the public welfare.

Provides, therefore, that the legislature determines that state regulation of the business relationship between the independent dealers and equipment suppliers as contemplated in the Fair Practices of Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act is necessary and that any action taken in violation of this Act would violate the public policy of this state.

Prohibits a supplier from preventing, by contract or otherwise, a dealer from changing its capital structure or the means by or through which the dealer finances its operations, if the dealer gives prior notice of the change to the supplier; and the dealer at all times meets any reasonable capital standards required by the supplier pursuant to a right granted in the dealer agreement and imposed on similarly situated dealers.

Prohibits a supplier from requiring a dealer to assent to a release, assignment, novation, waiver, or estoppel that would release any person from liability.

Provides that if a dealer dies, a supplier has 90 days in which to consider and make a determination on a request by a family member to enter into a new dealer agreement to operate the dealership.

Requires the supplier, if the supplier determines that the requesting family member is not acceptable, to provide the family member with a written notice of its determination with the stated reasons for nonacceptance.

Provides that an heir, personal representative, or family member of the dealer is not entitled to operate a dealership without the specific written consent of the supplier.

Requires an agreement previously executed by a supplier and a dealer before the dealer's death concerning succession rights, if that agreement is still in effect, to be observed even if it designates someone other than the surviving spouse or an heir of the decedent as the successor.

Office of Inspector General of the Department of Public Safety—H.B. 3099

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

Under current law, the office of inspector general (OIG) of DPS is granted the power to conduct investigations on allegations of wrongdoing or criminal activity. In establishing the office, certain appropriate procedural guidelines were not codified. This bill:

Provides that OIG is responsible for acting to prevent and detect fraud, serious breaches of DPS policy, and abuse of office, including any acts of criminal conduct within DPS; and independently and objectively reviewing, investigating, delegating, and overseeing certain investigations, including criminal activity occurring in all divisions of DPS; allegations of wrongdoing by DPS employees; crimes committed on DPS property; and serious breaches of DPS policy.

Requires OIG to coordinate and provide oversight, but provides that the office is not required to conduct all investigations.

Requires OIG to delegate any investigation considered potentially appropriate for criminal prosecution to the Texas Ranger division or the criminal investigations division of DPS for investigation or referral back to OIG for further action.

Requires OIG to continually monitor an investigation referred to another division of DPS and requires the inspector general and the division to report to the Public Safety Commission (PSC) on the status of the investigation while pending.

Authorizes OIG to only initiate an investigation based on authorization from the commission; approval of DPS or the inspector general or deputy inspector general; approval of the public safety director (director), a deputy director, an assistant director of the Texas Rangers, or an assistant director of the criminal investigations division for criminal investigations; or PSC rules or approved PSC policies.

Requires PSC to appoint the inspector general and authorizes PSC to appoint a deputy inspector general.

Provides that the inspector general serves until removed by PSC.

Provides that the inspector general is not required to be a peace officer.

Authorizes PSC or director to commission the inspector general as a commissioned peace officer of DPS if the inspector general holds a permanent peace officer license.

Requires the inspector general to coordinate with the director for administrative support as provided by PSC.

Requires the inspector general to report directly to PSC regarding performance of, and activities related to, investigations and provide the director with information regarding investigations as appropriate.

Requires the inspector general to present at each regularly scheduled PSC meeting and at other appropriate times a report on investigations; and prepare a summary of information relating to investigations conducted that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

Designating the Blue Star Memorial Highway—H.B. 3208

by Representative Burkett—Senate Sponsor: Senator Deuell

U.S. Highway 80 runs through the town of Sunnyvale, Texas. Currently, this stretch of highway is unnamed outside of its Highway 80 designation. The town of Sunnyvale wishes to honor veterans of the United States military by designating Highway 80 in Sunnyvale as a "Blue Star Memorial Highway." This bill:

Designates U.S. Highway 80 in the town of Sunnyvale as a Blue Star Memorial Highway.

Requires TxDOT, to erect markers only if a grant or donation is provided indicating the designation as a Blue Star Memorial Highway and any other appropriate information.

Maximum Limits for State Highways, Roads, and Bridges—H.B. 3309

by Representative Eddie Rodriguez—Senate Sponsor: Senator Nichols

Under current law, TTC has authority to set a maximum weight for a vehicle or combination of vehicles and loads that may be moved over a state highway or farm or ranch road if TTC finds that a heavier weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. In a 2009 report, the State Auditor recommended allowing TxDOT, rather than TTC, to set the maximum vehicle weight for a state-owned bridge to expedite implementation of restrictions that may be necessary for public safety. This bill:

Authorizes the executive director of TxDOT, rather than TTC as authorized under current law, to set maximum weights for state highways, roads, and bridges.

El Camino Real de los Tejas National Historic Trail as a Historic Highway—H.B. 3421

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

The El Camino Real de las Tejas National Historic Trail (trail) runs from the East Texas border near San Augustine to the South Texas border around Laredo. The trail was originally established to connect a series of missions and posts between Monclova, Mexico, and Los Andaes, the first capital of the province of Texas. The trail constitutes the only primary overland route from the Rio Grande to the Red River Valley in Louisiana during the Spanish Colonial Period from 1690-1821.

The United States Congress added the Trail to the National Trails Systems on October 14, 2004, and its designation commemorates significant historic routes extending from the United States-Mexico international border at the Rio Grande to the eastern boundary of the Spanish province of Texas in Natchitoches Parish, Louisiana. This bill:

Requires THC to cooperate with TxDOT to designate, interpret, and market the El Camino Real de los Tejas National Historic Trail as a Texas historic highway.

Authorizes TxDOT and THC to pursue federal funds dedicated to highway enhancement for the project.

Specifies that TxDOT is not required to construct or erect a highway marker under the provisions of the bill unless a grant or donation of funds is made to cover the costs.

Police Pursuit Compensation for Damage—H.B. 3422

by Representative Lozano—Senate Sponsor: Senator Hinojosa

Current law entitles a law enforcement agency to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for certain costs incurred from taking the vehicle into custody and auctioning the vehicle. A county law enforcement agency is authorized to use certain excess funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the agency after deducting the reimbursement to compensate property owners whose property was damaged as a result of the pursuit. Additionally, before a law enforcement agency may provide such compensation, the proposed payment must be submitted to the county commissioners court for consideration.

There is a need for property owners to obtain restitution due to damage caused to their property during a police pursuit. A person's vehicle is confiscated and sold in this instance and then the land owner is only entitled to the value of the vehicle, which could be much less than the damage to the property. This bill:

Authorizes a law enforcement agency of a municipality to use excess proceeds from the auction of an abandoned motor vehicle to compensate property owners whose property was damaged as a result of a pursuit involving the law enforcement agency.

Removes certain restrictions regarding compensation to property owners from law enforcement agencies.

Regulation of Towing, Booting, and Storage of Vehicles—H.B. 3510

by Representative Hamilton—Senate Sponsor: Senator Carona

Current law stipulates that the Texas Department of Licensing and Regulation (TDLR) oversees the vehicle towing, booting, and storage program. These duties were transferred to TDLR by the 80th Legislature. The 81st Legislature passed a number of bills that made significant changes to the towing and vehicle storage facility laws including providing for the regulation of vehicle booting under the same chapters of the Occupations Code.

Concerns have been raised by the towing industry that significant changes made since then to state laws regulating vehicle towing and storage, including statutes relating to vehicle booting, have resulted in the need to update and clarify those laws, as well as streamline certain regulatory processes. This bill:

Removes the requirement that a towing company notify law enforcement when it has performed an incident management tow, which is requested by law enforcement after accidents.

Authorizes the Texas Commission of Licensing and Regulation (TCLR) to set requirements for consent towing, for towing from private property, and for incident management tows.

Updates the statutory section headings to reflect governance of booting companies, not just towing companies.

Clarifies that cars can be booted in the same manner they are allowed to be towed and clarifies the sign requirements for towing and booting vehicles.

Excludes signs as items of "value" that cannot be given by a towing company or accepted by parking facility owner.

Shortens the storage lien requirement from 72 days to 45 days so that a vehicle storage facility (VSF) may sell abandoned vehicles in a timely manner.

Requires a person to present valid photo identification issued by this state, another state, a federal agency, or a foreign government to retrieve their vehicle from a VSF.

Stipulates that residents who do not charge for parking on their property are no longer required to post a sign on their property to have an unauthorized vehicle removed.

Provides that the tow signs are not considered a "thing of value."

Authorizes towing companies to supply and install tow signs for commercial and multi-family residential properties.

Provides that notice by the justice of peace courts, or other courts conducting tow hearings, to the law enforcement agency that authorized the removal of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

Authorizes justice of peace courts, or other courts conducting tow hearings, to award court costs and attorney's fees to the prevailing party.

Boater Education—H.B. 3722

by Representative Guillen—Senate Sponsor: Senator Zaffirini

The Texas boater education course administered by TPWC can be accessed online through agents appointed by TPWD. Several agents have expressed concern about the \$3 limit on the service fee they are allowed to collect and keep in Texas for providing such a course, which they assert is less than the service fees they collect for similar online courses they offer in other states. This bill:

Provides that an agent appointed to administer a boater education course or course equivalency examination, and to issue boater identification cards, is required to collect a \$10 examination or course fee and forward the fee and any examination document to TPWD not later than the 30th day after the date the examination or course is administered, and is authorized to collect and keep a \$3 service fee, or an amount set by TPWC, whichever is greater.

Maintenance Contracts Awarded by the Texas Department of Transportation—H.B. 3730

by Representative "Mando" Martinez—Senate Sponsor: Senator Hinojosa

Concerns have been raised that contract requirements for highway maintenance projects are not consistent with state purchasing laws allowing agencies to use an informal bidding process for the purchase of services costing less than \$25,000. This is an inconsistency that has a negative impact on the privatization of maintenance contracts that needs to be addressed. This bill:

Authorizes TxDOT to award a contract as a purchase of service if TxDOT estimates that the contract will involve an amount for which a formal solicitation process for the purchase of services is not required under rules relating to the delegation of purchasing authority to state agencies adopted by the comptroller of public accounts.

Safety Standards for High-Speed Rail—H.B. 3771

by Representative Harper-Brown—Senate Sponsor: Senator Williams

The Federal Railroad Administration (FRA) was created in 1966 to set and enforce railway safety standards. Concerns have been raised that FRA is using outdated safety standards regarding passenger rail. There is a need to update and provide more stringent standards. This bill:

Authorizes TxDOT by rule, on application by a railroad company, to adopt safety standards for high-speed rail systems, including rolling stock, for that railroad company.

Provides that in adopting the safety standards TxDOT is required to consider the safety records of high-speed rail systems, including rolling stock, operated in countries with a history of safe high-speed rail service; and is authorized to require the railroad company to construct grade separations or physical barriers to isolate the railroad company's high-speed rail systems from streets, roadways, or existing freight or passenger railroads.

Provides that a railroad company would not need to seek approval of safety standards from TxDOT if the railroad is operating under standards approved by FRA.

Requires TxDOT by rule to impose a reasonable fee on a railroad company that submits an application to recover costs incurred by TxDOT.

Designation of the Corporal Jason K. LaFleur Memorial Highway—H.B. 3837

by Representative Isaac—Senate Sponsor: Senator Hegar

Corporal Jason K. LaFleur, 1st Squadron, 40th Cavalry Regiment, 4th Brigade Combat Team (Airborne), 25th Infantry Division of the United States Army, lost his life at the age of 28 when his vehicle was struck by an improvised explosive device during combat operations near Hawr Rajab, Iraq. A decorated member of the United States Army, Cpl. LaFleur was awarded a Bronze Star and Purple Heart for his actions on August 4, 2010. Designating a memorial highway would honor his service to our country. This bill:

Designates a portion of U.S. Highway 183 near Lockhart as the Cpl. Jason K. LaFleur Memorial Highway to recognize and honor the memory of a young man who valiantly served his country.

Excluding Territory From the Harris County Road Improvement District No 2—H.B. 3843

by Representative Thompson—Senate Sponsor: Senator Whitmire

Harris County Road Improvement District No. 2 (district) encompasses over 200 acres in an unincorporated portion of Harris County. Since the district's inception, there has been no development on the property, no bonds have been authorized, and the district has no outstanding financial obligation. This bill:

Excludes an area of the district's boundary that would no longer be within the taxing district, which would make it eligible to be annexed by the adjoining municipal utility district.

Development of Toll Projects—S.B. 19

by Senator Nichols et al.—House Sponsor: Representative Wayne Smith

S.B. 792, 80th Legislature, Regular Session, 2007, enacted a moratorium on most comprehensive development agreements and created a "market valuation" process by which TxDOT could proceed with certain transportation projects.

The market valuation process established under S.B. 792 is set to expire on August 31, 2011. Once this process expires, Texas will not have a process in statute to determine which tolling entity will build future toll projects. This bill:

Provides that unless a toll project is leased, sold, conveyed, or otherwise transferred to another governmental entity a toll project procured by TxDOT or a local toll project entity is owned by that entity in perpetuity.

Provides that all legal challenges to development of a toll project are considered concluded when a judgment or order of a court with jurisdiction over the challenge becomes final and unappealable.

Authorizes TxDOT and the local toll project entity, before initiating the primacy determination process for a toll project, to enter into a toll project agreement that identifies the responsibilities of each party for project-related activities, which may include the performance of environmental work and traffic and revenue studies and includes an agreement that the primacy determination process may be initiated earlier than mentioned in this bill.

Authorizes a toll project agreement to provide an alternative to the primacy determination process for toll project development, including an alternative timeline for the development of toll project phases.

Provides that unless otherwise provided by a toll project agreement or other agreement, an exercise of primacy over a phase of a toll project is an exercise of primacy over the entire project, with additional phases to be developed as the entity determines the phases financially feasible.

Authorizes a local toll project entity, at any time after a metropolitan planning organization approves the inclusion in the metropolitan transportation improvement program of a toll project to be located in the territory of the local toll project entity, to notify TxDOT in writing of the local toll project entity's intent to initiate the toll primacy process (process).

Authorizes TxDOT to notify the local toll project entity in writing of TxDOT's intent to initiate the process at any time after a metropolitan planning organization has approved the inclusion in the metropolitan transportation improvement program of a toll project to be located in the territory of a local toll project entity and TxDOT has issued a finding of no significant impact for the project, or for a project for which an environmental impact statement is prepared, TxDOT has approved the final environmental impact statement for the project; or for a project subject to environmental review requirements under federal law, the United States Department of Transportation Federal Highway Administration has issued a finding of no significant impact, or for a project for which an environmental impact statement is prepared, TxDOT has submitted a final environmental impact statement to the Federal Highway Administration for approval.

Provides that the local toll project entity has the first option to develop, finance, construct, and operate a toll project.

Requires the local toll project entity to exercise its option not later than the later of the 180th day after the date on which notification is provided or notification is received; or if the United States Department of Transportation Federal Highway Administration issues a record of decision for an environmental impact statement submitted by TxDOT more than 60 days after the date TxDOT provides notice, or the 120th day after the date the record of decision is issued.

Authorizes the extension of the option period for an additional 90 days by agreement of TxDOT and the local toll project entity.

Requires the local toll project entity, if the local toll project entity exercises the option, after exercising the option, to advertise for the initial procurement of required services, including, at a minimum, design services, for the project, within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded; and enter into a contract for the construction of the toll project, within two years after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded.

Provides that if the local toll project entity fails or declines to exercise the option to develop, finance, construct, and operate a toll project or fails or declines to advertise for procurement or enter into a construction contract, TxDOT has the option to develop, finance, construct, and operate the toll project.

Provides that TxDOT has not more than 60 days after the date the local toll project entity fails or declines to exercise its option or fails or declines to advertise for procurement or enter into a construction contract to exercise its option.

Requires TxDOT, if TxDOT exercises its option, to advertise for the initial procurement of required services, including, at a minimum, design services, for the project, within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded; and enter into a contract for the construction of the toll project, within two years after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded.

Authorizes the local toll project entity or TxDOT, if the process concludes without either entity entering into a contract for the construction of the toll project, to reinstate the process by submitting notice to the other entity.

Authorizes TxDOT or the local toll project entity at any time before or during the process established to waive or decline to exercise any option, step, or other right under this subchapter that solely benefits that entity by notifying the other entity of its decision in writing.

Authorizes TxDOT and the local toll project entity, by written agreement, to alter any other step or time limit, including the timing of or conditions for initiating the process.

Requires TxDOT, on initiation of the process, to make its project-related information available to the local toll project entity.

Requires the local toll project entity, if the local toll project entity fails or declines to exercise an option or fails or declines to advertise for procurement or enter into a construction contract to make its project-related information available to TxDOT.

Requires TxDOT or the local toll project entity, on entering into a contract for the construction of the toll project, as applicable, to reimburse the other entity for shared project-related information that it uses.

Provides that use by an entity of project-related information received by the entity is at the sole risk of the receiving entity and does not confer liability on the entity that furnished the information.

Requires TxDOT or the local toll project entity, after TxDOT or the local toll project entity exercises an option, as applicable, to issue a semiannual report on the progress of the development of the toll project.

Requires that the report be made available to the public.

Authorizes TxDOT or the local toll project entity to begin any environmental review process that may be required for a proposed toll project before initiating the process.

Requires the local toll project entity, if the local toll project entity initiates the process for development of a toll project and has not begun the environmental review of the project, to begin the environmental review within 180 days of exercising the option.

Authorizes TxDOT or the local toll project entity to begin development of a toll project before the project receives environmental clearance but prohibits TxDOT or the local toll project entity from beginning construction of the project before the project receives that clearance.

Authorizes only the local toll project entity that first constructed toll projects, if a toll project is in the territory of more than one local toll project entity, to exercise the options and other rights under this subchapter.

Authorizes the local toll project entity exercising an option or other right to do so only with respect to the portion of the project located in the territory of that local toll project entity, and requires the local toll project entity exercising an option or other right under this section to do so on behalf of another local toll project entity in whose territory the project will be located if requested by the other entity after the original entity declines to exercise its option.

Requires TTC and TxDOT, consistent with federal law, to assist a local toll project entity in the development, financing, construction, and operation of a toll project for which the local toll project entity has exercised its option to develop, finance, construct, and operate the project by allowing the local toll project entity to use state highway right-of-way and to access the state highway system as necessary to construct and operate the toll project.

Authorizes a local toll project entity and TTC, notwithstanding any other law, to agree to remove the toll project from the state highway system and transfer ownership to the local toll project entity.

Requires a local toll project entity to reimburse TxDOT for TxDOT's actual costs to acquire a right-of-way transferred to the local toll project entity.

Requires that the reimbursement, if TxDOT is not able to determine that amount, be in an amount equal to the average actual historical right-of-way acquisition values for comparable right-of-way located in proximity to the project on the date of original acquisition of the right-of-way.

Authorizes the local toll project entity, in lieu of reimbursement, and at the local toll project entity's sole option, to agree to pay to TxDOT a portion of the revenues of the project, in the amount and for the period of time agreed to by the local toll project entity and TxDOT.

Requires that money received by TxDOT under this section be deposited in the state highway fund and, except for reimbursement for costs owed to a third party, be used to fund additional projects in the TxDOT district in which the toll project is located.

Requires TxDOT to reimburse a local toll project entity for any cost of right-of-way acquired by the entity for a toll project that will be developed, financed, constructed, and operated by TxDOT.

Authorizes TTC or TxDOT or the local toll project entity to waive the reimbursement requirement.

Requires a local toll project entity and TxDOT to enter into an agreement for any toll project for which the entity has exercised its option to develop, finance, construct, and operate the project and for which the entity intends to use state highway right-of-way.

Requires that the agreement contain provisions necessary to ensure that the local toll project entity's construction, maintenance, and operation of the project complies with the requirements of applicable state and federal law; and protects the interests of TTC and TxDOT in the use of right-of-way for operations of TxDOT, including public safety and congestion mitigation on the right-of-way.

Provides that, notwithstanding any other law, TTC and TxDOT are not liable for any damages that result from a local toll project entity's use of state highway right-of-way or access to the state highway system under this subchapter, regardless of the legal theory, statute, or cause of action under which liability is asserted.

Provides that an agreement entered into by a local toll project entity and TxDOT in connection with a toll project that is developed, financed, constructed, or operated by the local toll project entity and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

Authorizes TTC or TxDOT, notwithstanding an action taken by a local toll project entity under this subchapter, to take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

Requires TxDOT to allocate the distribution of the surplus toll revenue to TxDOT districts in the region that are located in the boundaries of the metropolitan planning organization in which the toll project or system producing the surplus revenue is located based on the percentage of toll revenue from users in each TxDOT district of the project or system.

Requires each entity responsible for collecting tolls for a project or system to assist TxDOT in determining the allocation of the funds and to calculate on an annual basis the percentage of toll revenue from users of the project or system in each TxDOT district based on the number of recorded electronic toll collections.

Prohibits TTC or TxDOT from revising the formula as provided in TxDOT's Unified Transportation Program or a successor document in a manner that results in a decrease of a TxDOT district's allocation because of the deposit of a payment into a project subaccount, or from taking any other action that would reduce funding allocated to a TxDOT district because of the deposit of a payment.

Requires that any determination of value, including best value, under applicable federal or state law for a comprehensive development agreement or other public-private partnership arrangement involving a toll project take into consideration any factors the toll project entity determines appropriate, including factors related to oversight of the toll project; maintenance and operations costs of the toll project; the structure and rates of tolls; economic development impacts of the toll project; and social and environmental benefits and impacts of the toll project.

Alternative Motor Fuel Programs—S.B. 20

by Senators Williams and West—House Sponsor: Representative Strama et al.

Currently, there is no state program aimed at replacing diesel burning heavy-duty vehicles with natural gas heavy-duty vehicles. Encouraging increased use of Texas-produced natural gas for transportation offers many benefits, including increased economic benefits, job creation benefits, energy security benefits, and environmental benefits. This bill:

Establishes new grant programs under the Texas Emissions Reduction Plan (TERP), the natural gas vehicle rebate program, a program to fund natural gas fueling stations, and an alternative fueling facilities program.

Establishes the Texas Natural Gas Vehicle Grant Program, which consists of two new grant programs for funding the purchase or lease of natural gas vehicles or engines and the establishment of natural gas refueling stations along the interstate highways between Houston, San Antonio, Dallas, and Fort Worth.

Provides that TCEQ will reallocate funds to the new natural gas vehicle grants program to other purposes if, after consultation with the governor and the TERP advisory board, TCEQ determines that the use of the money for that

program would cause the state to be in noncompliance with the State Implementation Plan to the extent that federal action is likely.

Establishes the Alternative Fuels Facilities Program to provide grants for fueling facilities for alternative fuel in nonattainment areas.

Provides that the entities that construct, reconstruct, or acquire an alternative fueling facility would be eligible to participate in that grant program.

Compulsory Inspection of Motor Vehicles—S.B. 197

by Senator West—House Sponsor: Representative Phillips

Automotive emissions enforcement efforts in north central Texas, have uncovered evidence of pervasive fraud among inspection stations in the region. Based on a review of data collected by the North Central Texas Council of Governments and TCEQ, analysts estimate that 20 percent of all light duty cars and trucks in the region display improper, fraudulent, counterfeit, or fictitious inspection certificates.

In Dallas County alone, enforcement officials detected 22,618 vehicle identification number mismatches with on-board diagnostic systems. Twelve percent of all inspection stations in Dallas County were improperly conducting at least 10 percent of all emissions tests. The fee requirement for certification of inspectors and inspection stations is so nominal that they provide no meaningful deterrent effect. Additionally, even in the most egregious circumstances, the penalty for fraudulent activity is limited to a Class C misdemeanor. This bill:

Authorizes TCEQ to impose an administrative penalty on a person in the amount of not more than \$500 for each vehicle inspection related violation or a rule adopted by TCEQ.

Requires that an application for certification as an inspection station be accompanied by a surety bond in the amount of \$5,000, payable to this state and conditioned on the future compliance with statutes and the rules adopted by DPS or TCEQ.

Authorizes the attorney general or the district or county attorney for the county in which the inspection station is located or in which the inspection station employs the inspector is located to bring suit in the name of this state to recover on the bond.

Increases the fee for a first time applicant for certification as an inspector from \$10 to \$25.

Increases the inspection certification fee from \$30 to \$100 if the application is approved.

Requires an applicant, if an applicant for certification as an inspection station has been convicted of a certain violations after notification that the application will be approved, to pay a fee of \$500 for certification until August 31 of the odd-numbered year after the date of appointment.

Requires the applicant, to be certified after August 31 of that year, to pay a fee of \$100 for certification for each subsequent two-year period.

Requires the applicant, if an applicant for certification as an inspection station has been convicted of two or more violations relating to an emissions inspection after notification that the application will be approved, to pay a fee for \$1,500 for certification until August 31 of the odd-numbered year after the date of appointment.

Requires an applicant, to be certified after August 31 of that year, pay a fee of \$100 for certification for each subsequent two-year period.

Provides that an inspection station that violates a provision relating to an emissions inspection is liable for a civil penalty of not less than \$250 or more than \$500 for each violation.

Authorizes the district or county attorney for the county in which the inspection station is located or the attorney general to bring suit in the name of this state to collect the penalty.

Provides that an inspector who violates a provision relating to an emissions inspection is liable for a civil penalty of not less than \$50 or more than \$150 for each violation.

Authorizes the district or county attorney for the county in which the inspection station that employs the inspector is located or the attorney general to bring suit in the name of this state to collect the penalty.

Provides that a person commits an offense if, in connection with a required emissions inspection of a motor vehicle, the person knowingly places or causes to be placed on a motor vehicle an inspection certificate if the vehicle does not meet the emissions requirements established by DPS; or the person has not inspected the vehicle; manipulates an emissions test result; uses or causes to be used emissions data from another motor vehicle as a substitute for the motor vehicle being inspected; or bypasses or circumvents a fuel cap test.

Provides that a first offense is a Class B misdemeanor, and that a second or subsequent offense is a Class A misdemeanor.

Provides that if it is found on trial of an offense that the person committing the offense acted with the intent to defraud or harm another person, the offense is a state jail felony.

Provides that any bypassing or circumventing a fuel cap test offense is a Class C misdemeanor.

Provides that it is a defense to prosecution for bypassing or circumventing a fuel cap test that the analyzer used by the person developed a functional problem during the emissions inspection of the fuel cap that prevented the person from properly conducting the fuel cap test portion of the emissions inspection.

Provides that an inspection station is not subject to an administrative or civil penalty or criminal prosecution for an act of an employee of the inspection station if the inspection station requires the employee to sign a written agreement to abide by the law.

Provides that an inspection station is subject to prosecution for an act of an employee of the inspection station if the inspection station has received written notification from DPS or another agency that the employee has committed an offense, and continues to allow the employee to perform inspections.

Toll Collection Services by a Regional Tollway Authority—S.B. 246

by Senator Shapiro—House Sponsor: Representative Harper-Brown

Currently, regional tollway authorities, such as the North Texas Tollway Authority (NTTA), are required to collect tolls for all projects in their service area regardless of whether they built the project. Companies developing projects within the authority's service area request letters of credit (LOCs) as a way to guarantee revenue collected by the authority will be received by the private entity. With several managed lanes planned for future development, requiring NTTA to obtain a LOC on every project could encumber \$200-300 million on its balance sheet to secure LOCs, which would negatively impact NTTA's bonding capacity. This bill:

Prohibits a regional tollway authority from providing financial security for tolling services if providing the security would restrict the amount or increase the cost of bonds or debt obligations.

Stipulates that a regional tollway authority is not allowed to reimburse the cost of security.

Requires a regional tollway authority to enter into a written agreement to establish terms and conditions for the tolling services to be provided and the compensation for those services.

Provides that toll revenues are the property of the authority under an agreement regardless of who holds or collects the revenues.

Provides that toll revenues, under a tolling services agreement for a toll project, that are not held or collected by the authority and are not the property of the authority, are not subject to a claim adverse to the authority or a lien on or encumbrance against property of the authority.

Authorizes a public or private entity, including an authority or TxDOT, to agree to fund a cash collateral account for the purpose of providing money for payments that an authority failed to pay under a tolling services agreement.

Authorizes TxDOT to use money from any available source to fund a cash collateral account as defined by the provisions of the bill.

"Choose Life" License Plates—S.B. 257

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

Currently, numerous states, not including Texas, offer a license plate that reads "Choose Life," which is meant to promote adoption and raise funds for certain aspects related to adoption. This bill:

Requires TxDMV to issue specially designed license plates that include the words "Choose Life" and to design the license plates in consultation with the attorney general.

Requires TxDMV, after deduction of its administrative costs, to deposit the remainder of the fee for issuance of "Choose Life" license plates in the state treasury to the credit of the Choose Life account (account).

Provides that the account is a separate account in the general revenue fund and details its composition.

Provides that the attorney general administers the account and authorizes the attorney general to only spend money credited to the account to make grants to an eligible organization and to defray the costs of administering the account.

Prohibits the attorney general from discriminating against an eligible organization because it is a religious or nonreligious organization.

Requires the attorney general by rule to establish guidelines for the expenditure of money credited to the Choose Life account and to establish reporting and other mechanisms to ensure that the money is spent accordingly.

Provides that money received by an eligible organization may only be spent to provide for the material needs of pregnant women who are considering placing their children for adoption, to provide for the needs of infants who are awaiting placement with adoptive parents, to provide training and advertising relating to adoption, and to provide pregnancy testing or pre-adoption or postadoption counseling, but prohibits the money received from being used to pay an administrative, legal, or capital expense.

Defines "eligible organization."

Requires the attorney general to appoint a seven-member Choose Life advisory committee (committee) which is required to assist the attorney general in developing rules related to the money in the account, and to review and make recommendations to the attorney general on applications submitted to the attorney general for grants funded with money credited to the account. Sets forth other provisions related to the committee.

Possessory Lien Notices on Motor Vehicles—S.B. 266

by Senator Williams—House Sponsor: Representative Harless

S.B. 543, 81st Legislature, Regular Session, 2009, stipulated that in order to place a mechanic's lien on a vehicle, the lien holder as well as the tax office are required to send notice to all parties with an interest in the vehicle. Unfortunately, the law was not clear that dual notices would be required for all mechanic's liens, not just those originating after the effective date of the law. This bill:

Requires a holder of a lien on a motor vehicle or on a motorboat, vessel, or outboard motor for which a certificate of title is required who retains possession of the motor vehicle, motorboat, vessel, or outboard motor to give written notice to the owner and each holder of a lien recorded on the certificate of title.

Requires a holder of a possessory lien on a motor vehicle not later than the 30th day after the date on which the charges accrue, other than a person licensed as a franchised dealer, to file a copy of the notice and all information required with the county tax assessor-collector's office in the county in which the repairs were made with an administrative fee of \$25 payable to the county tax assessor-collector.

Requires the county tax assessor-collector, not later than the 15th business day, rather than the 10th day, after the date the county tax assessor-collector receives notice, to provide a copy of the notice to the owner of the motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle.

Requires the county tax assessor-collector to provide the required notice in the same manner as a holder of a lien is required to provide a notice, except that the county tax assessor-collector is not required to use certified mail.

Provides that notice is required regardless of the date on which the charges on which the possessory lien is based accrued.

Requirements Relating to Motor Vehicle Given as a Gift—S.B. 267

by Senators Williams and Lucio—House Sponsor: Representative Elkins

Current law imposes a \$10 tax on the recipient of a gift of a motor vehicle in lieu of the normal 6.25 percent tax applied to either the sales price or its standard presumptive value. To be eligible, a recipient is required to have received the vehicle from the recipient's spouse, parent or stepparent, grandparent or grandchild, child or stepchild, sibling, or guardian. An affidavit that the title transfer was a gift between eligible parties is required to be filed with the local tax assessor-collector at the time of title transfer. Tax-exempt organizations also are required to pay the \$10 tax on motor vehicles they receive as gifts.

Some vehicle title service companies have been forging gift tax affidavits, paying the tax office the \$10 gift tax, charging the customer the 6.25 percent vehicle sales tax, and pocketing the difference. This bill:

Requires that a joint statement that relates to a gift from a person or estate 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.

Prohibits a licensed motor vehicle title service from being used to file the statement.

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 a driver's license or personal identification card issued by this state or another state of the United States; an original United States passport or an original passport issued by a foreign country; an identification card or similar form of identification issued by the Texas Department of Criminal Justice; a United States military identification card; or an identification card or document issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

Issuance of License Plates to United States Paratroopers—S.B. 461

by Senator Williams—House Sponsor: Representative Huberty

Concerns have been raised that the wording of the Airborne Parachutists specialty license plate should state "U.S. Paratroopers." The license plates were intended to honor those who participated in a combat jump while serving in the United States military and by changing the wording they can be better honored for their service. This bill:

Requires that the specialty license plates include a likeness of the parachutist badge authorized by the Department of the Army, and the words "U.S. Paratrooper."

Collection of Unpaid Tolls by a Regional Tollway Authority—S.B. 469

by Senator Nelson et al.—House Sponsor: Representative Diane Patrick

Current law authorizes NTTA to assess an administrative fee of up to \$100 per toll transaction and a subsequent fine of \$250 per transaction for late payments. With advancements in electronic tolling, using toll roads has become more convenient for residents, and an average invoice contains twelve transactions; however, because bills arrive in the mail days or weeks after a toll road trip, drivers sometimes unknowingly miss a payment. The current penalty structure allows fines and fees to accumulate to the point that drivers are unable to afford them; an average invoice could cost a driver thousands of dollars for missing a payment. This bill:

Requires a regional tollway authority, as an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, to use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date.

Requires an authority that does not collect the proper toll at the time a vehicle is driven or towed through a toll assessment facility to send an invoice by first class mail to the registered owner of the vehicle.

Authorizes the invoice to include one or more tolls assessed by the authority for use of the project by the nonpaying vehicle and requires the invoice to specify the date by which the toll or tolls must be paid.

Requires the registered owner to pay the unpaid tolls included in the invoice not later than the 30th day after the date the invoice is mailed except that if the address to which the invoice is mailed to the registered owner is determined to be incorrect, the registered owner is required to pay the invoice not later than the 30th day after the date the invoice is mailed to the correct address.

Requires the authority, if the registered owner fails to pay the unpaid tolls included in the appropriately mailed invoice, to send the first notice of nonpayment by first class mail to the registered owner.

Requires the authority to send three notices of nonpayment of an assessed toll, rather than only a single notice.

Authorizes the authority to charge only one administrative fee of not more than \$25, rather than not more than \$100, for the first notice of nonpayment that is sent to the registered owner of the nonpaying vehicle.

Requires an authority, unless the authority requires additional time to send a notice of nonpayment because of events outside the authority's reasonable control, to send the first notice of nonpayment not later than the 30th day after the date the 30-day period expires for the registered owner to pay the invoice.

Requires an authority, if the authority requires additional time, to send the notice not later than the 60th day after the date the 30-day period expires for the registered owner to pay the invoice. The bill removes language requiring the registered owner to pay a separate toll and administrative fee for each nonpayment.

Requires the authority to send a second notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle if the registered owner fails to pay the unpaid tolls and the administrative fee by the date specified in the first notice of nonpayment.

Requires the second notice of nonpayment to specify the date by which payment must be made and authorizes the second notice to require payment of the unpaid tolls and administrative fee included in the first notice of nonpayment and an additional administrative fee of not more than \$25 for each unpaid toll included in the second notice, not to exceed a total of \$200.

Requires the authority to send a third notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle if the registered owner fails to pay the amount included in the second notice of nonpayment by the date specified in that notice.

Requires the third notice to specify the date by which payment must be made and authorizes the third notice to require payment of the amount included in the second notice of nonpayment and any third-party collection service fees incurred by the authority.

Stipulates that nonpayment by the registered owner of the vehicle may be established by a copy of a written agreement between the authority and the registered owner for the payment of unpaid tolls and administrative fees and evidence that the registered owner is in default under the agreement.

Authorizes the authority to collect third-party collection service fees among the fees for which the unpaid toll was assessed.

Prohibits the waiving by the court of payment of the unpaid tolls, administrative fees, and third-party collection service fees by the registered owner unless the court finds that the registered owner of the vehicle is indigent.

Requires the authority to follow certain procedures as if the lessee were the registered owner of the vehicle, including sending an invoice to the lessee not later than the 30th day after the date of the receipt of the information from the lessor.

Oversize and Overweight Vehicle Permits—S.B. 524

by Senator Hegar—House Sponsor: Representative Morrison

Current law stipulates that only Victoria County Navigation District (district), with TxDOT approval, may issue oversize/overweight permits for transportation of goods on certain state highways within Victoria County. The district may currently issue these permits on a four-mile stretch of road. Expansion of the area in which the district can issue oversize/overweight permits for the overland transportation of goods will help to ensure that local businesses can transport materials and finished products without unnecessary delay, while at the same time ensuring that the state is properly reimbursed for related maintenance costs. This bill:

Authorizes TTC to authorize the district to issue permits for the movement of oversize or overweight vehicles carrying cargo certain highways and roads located in Victory County, including Farm-to-Market Road 1432 between the Port of Victoria and State Highway 185; State Highway 185 between U.S. Highway 59 and McCoy Road; U.S. Highway 59, including a frontage road of U.S. Highway 59, between State Highway 185 and Loop 463; and Loop 463 between U.S. Highway 59 and North Lone Tree Road.

Authorizes the district to collect a fee for permits issued.

Prohibits the fees from exceeding \$100, rather than \$80, per trip.

Requires that a permit include certain information including the signature of the director of the district or the director's designee; a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported, provided that the gross weight of such equipment and commodities shall not exceed 140,000, rather than 125,000, pounds; and a statement that the cargo shall only be transported on the roads designated.

Motor Vehicle Dealers, Manufacturers, Distributors, and Representatives—S.B. 529

by Senators Huffman and Van de Putte—House Sponsor: Representative Hunter et al.

The relationship between motor vehicle manufacturers/distributors and their franchised dealers are governed by the franchise agreement between the parties and state law. The law needs to be updated to address certain practices which continue to threaten the viability of Texas's franchised dealerships and the industry. This bill:

Authorizes a manufacturer or distributor, in determining whether to approve a dealer's application, to consider the prospective transferee's financial and operational performance as a franchised dealer, if the prospective transferee is or has been a franchised dealer; the prospective transferee's moral character; or the extent to which a prospective transferee satisfies any criteria developed by the manufacturer or distributor and made available to the prospective transferee, specifically to determine the business experience and financial qualifications of a prospective transferee.

Authorizes a manufacturer or distributor to consider certain criteria developed only if the criteria are in writing, are reasonable, and are uniformly applied in similar situations.

Provides that it is unreasonable for a manufacturer or distributor to reject a prospective transferee who is of good moral character and who satisfies the specified criteria.

Requires a manufacturer, distributor, or representative, notwithstanding the terms of any franchise, after the termination of a franchise, to pay to a franchised dealer or any lienholder, in accordance with the interest of each, certain amounts for certain items, including the depreciated value of computer software that was recommended and required in writing by the manufacturer, distributor, or representative.

Requires a manufacturer, distributor, or representative to pay to the franchised dealer certain amounts as applicable, including either the dealer's construction costs for a new dealership completed in the two years preceding the date of the termination or discontinuance, or if the dealer does not have any costs the fair monthly rental value of the dealership payable in cash each month beginning on the first day of the first month following the date of the termination or discontinuance and ending on the earlier of the first anniversary of the termination or discontinuance date, or the date on which the dealer no longer owns the dealership; the dealer's costs for upgrading or substantially altering a dealership if the upgrades or alternatives were completed or added in the two years preceding the date of the termination or discontinuance; and an amount equal to the value of the goodwill associated with the franchise as it existed on the day before the earlier of the date of the termination or discontinuance or the date on which the manufacturer, distributor, or representative announced its intention to terminate or discontinue the franchise in a manner.

Requires a franchised dealer receiving money to make a reasonable effort to earn income from a dealership after a termination or discontinuance and inform the manufacturer, distributor, or representative of the dealer's efforts and of any income earned from the dealership.

Requires that the aforementioned amounts be paid to the dealer by a manufacturer, distributor, or representative be based on the percentage of the total square footage of the dealership, attributable to sales, service, and parts, suggested by a manufacturer or distributor and allocated to the franchise being terminated or discontinued at the time of the termination or discontinuance.

Requires a franchised dealer receiving money to mitigate damages by listing the dealership for lease or sublease with a real estate broker not later than the 30th day after the effective date of the termination or discontinuance and to reasonably cooperate with the broker in the performance of the broker's duties.

Authorizes a manufacturer, distributor, or representative to reduce the amount of a payment made to a franchised dealer by the amount of any income earned by the dealer from the dealership during the month preceding the payment.

Requires the manufacturer, distributor, or representative, as appropriate, to pay any of the aforementioned amounts not later than the 90th day after the date of the termination or discontinuance described.

Provides that an amount payable does not include any tax depreciation benefit received by the franchised dealer or any amount previously paid to the franchised dealer by the manufacturer, distributor, or representative to subsidize the costs incurred by the dealer in performing certain activities.

Prohibits a manufacturer, distributor, or representative, notwithstanding the terms of any franchise, from unreasonably requiring a franchised dealer to relocate or to replace or substantially change, alter, or remodel the dealer's facilities.

Provides that an act is reasonable if it is justifiable in light of current and reasonably foreseeable projections of economic conditions, financial expectations, and the market for new motor vehicles in the relevant market area.

Provides that it is unreasonable for a manufacturer, distributor, or representative to require a franchised dealer to construct a new dealership or to substantially change, alter, or remodel an existing dealership before the 10th anniversary of the date the construction of the dealership at that location was completed if the construction was in substantial compliance with standards or plans provided by a manufacturer, distributor, or representative or through a subsidiary or agent of the manufacturer, distributor, or representative, except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service a line-make.

Provides that it is unreasonable for a manufacturer, distributor, or representative to require a franchised dealer to substantially change, alter, or remodel an existing dealership before the 10th anniversary of the date that a prior change, alteration, or remodel of the dealership at that location was completed if the change, alteration, or remodel was in substantial compliance with standards or plans provided by a manufacturer, distributor, or representative or through a subsidiary or agent of the manufacturer, distributor, or representative, except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service a line-make.

Prohibits a manufacturer, distributor, or representative, notwithstanding the terms of any franchise, from unreasonably limiting or impairing the ability of a franchised dealer to use the dealership property as the dealer considers appropriate; controlling the use of the dealership property after the franchise is terminated or discontinued; or at any time exercising exclusive control over the use of the dealership property.

Prohibits a manufacturer, distributor, or representative, notwithstanding the terms of a franchise, from treating franchised dealers of the same line-make differently as a result of the application of a formula or other computation or process intended to gauge the performance of a dealership or otherwise enforce standards or guidelines applicable to its franchised dealers in the sale of motor vehicles if, in the application of the standards or guidelines, the franchised dealers are treated unfairly or inequitably in the sale of a motor vehicle owned by the manufacturer or distributor,

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.

Provides that a claim is considered approved unless a manufacturer or distributor rejects the claim not later than the 31st day after the date of receipt of the claim by the manufacturer or distributor.

Requires the manufacturer or distributor to provide the dealer with written notice of a rejection of a claim and the reasons for the rejection.

Prohibits a manufacturer, distributor, or representative from requiring that a franchised dealer provide to the manufacturer, distributor, or representative information regarding a customer, except to the extent that a specific item of information is necessary for the sale or delivery of a new motor vehicle to a customer; for reasonable marketing purposes; to validate a claim and make payment under an incentive program; to support a dealer's claim for reimbursement for repairs performed under a manufacturer's warranty; or to satisfy a product recall or safety obligation.

Prohibits a manufacturer, distributor, or representative from requiring that a dealer enter into a property use agreement as a condition of the manufacturer, distributor, or representative entering into a franchise; approving a franchised dealer's application to add a line-make; approving a franchised dealer's application to relocate a franchise; or approving a sale or transfer of a dealer, dealership, or franchise.

Provides that a property use agreement is void and unenforceable if it contains a limitation on the franchised dealer's ability to add a line-make; or a provision that binds a franchised dealer's successor.

Provides that a property use agreement expires on the earlier of the date provided by the property use agreement, or the termination of the franchise between the parties to the property use agreement.

Authorizes a dealer to enter into a property use agreement for cash consideration that grants the manufacturer or distributor the exclusive rights to direct the use of the dealership.

Provides that in the event the dealer breaches the terms of the property use agreement by altering the use of the property during the term of the agreement in violation of the agreement, the property use agreement is terminated

and the dealer is required to reimburse the manufacturer or distributor in an amount determined by dividing the amount of the manufacturer's or distributor's cash consideration provided by the market value of the property identified in the original property use agreement at the time any necessary real estate has been purchased and any necessary construction has been completed, and multiplying the resulting quotient by the market value of the property at the time of the breach.

Provides that the market value of property is to be determined by three appraisers: one selected by the affected manufacturer or distributor; one selected by the affected dealer; and one selected by mutual agreement of the manufacturer or distributor and the dealer.

Requires the board of TxDMV, in an action brought against a manufacturer or distributor by a franchised dealer whose franchise provides for arbitration in compliance with this chapter, to order the parties to submit the dispute to mediation in the manner provided by this subchapter.

Provides that a person has standing to protest an application to establish or relocate a dealership if the person filing the protest is a franchised dealer of the same line-make whose dealership is located in the county in which the proposed dealership is to be located, or within a 15-mile radius of the proposed dealership.

Authorizes a franchised dealer to protest an application to relocate a dealership from a location in an affected county to a location within the same affected county or an adjacent affected county only if the dealer is a dealer of the same line-make as the relocating dealership and is in the affected county where the proposed dealership is being relocated and is nearest to the proposed relocation site, if no dealership of the same line-make as the relocating dealership is located within 15 miles of the proposed relocation site; or a dealer of the same line-make as the relocating dealership whose dealership location is within 15 miles of the proposed relocation site.

Authorizes each dealer and dealership location, if more than one dealership location is an equal distance from the proposed relocation site, to protest the relocation.

Prohibits a dealer from protesting an application to relocate if the proposed relocation site is two miles or less from the dealership's current location.

Prohibits a dealer from protesting the relocation of an economically impaired dealer if the relocation is reasonably expected to be completed before the first anniversary of the date of the event; and the proposed relocation site is two miles or less from the economically impaired dealer's current location.

Authorizes a dealer, of the same line-make as an economically impaired dealer whose dealership is nearest to the proposed relocation site of the economically impaired dealer to protest the relocation if the proposed relocation site is more than two miles closer to the protesting dealer's dealership than the site of the economically impaired dealer's current location.

Authorizes each dealer, if more than one dealership location is an equal distance from the proposed relocation site, and each dealer and dealership location to protest the relocation.

Entitles a person, to any procedure or remedy if the person meets certain criteria, including the person is a franchised dealer who has sustained damages as a result of a certain violation.

Environmental Review Process for Transportation Projects—S.B. 548

by Senator Nichols et al.—House Sponsors: Representatives Darby and Schwertner

The environmental review process for transportation projects, set in place by the National Environmental Policy Act (NEPA), serves a good purpose yet sometimes slows project delivery. Although the state cannot address many of the procedures involved with projects using federal dollars, there are opportunities to make the state process more efficient. This bill:

Specifies the period during which the reviewing agency is required to review the highway project and provide comments to TxDOT, as negotiated by TxDOT and the agency, but which may not exceed 45 days after the date the agency receives a request for comments from the department;

Specifies that comments will be submitted to TxDOT not later than 45 days after the date the agency receives a request for comments from TxDOT and will be considered by TxDOT to the extent possible.

Requires TxDOT by rule to establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

Requires TTC by rule to establish standards for processing an environmental review document for a highway project.

Requires the standards to increase efficiency, minimize delays, and encourage collaboration and cooperation by TxDOT with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

Provides that the standards apply regardless of whether the environmental review document is prepared by TxDOT or a local government sponsor.

Provides that the standards apply to work performed by the sponsor and to TxDOT's review process and environmental decision.

Requires the standards to address, for each type of environmental review document, the issues and subject matter to be included in the project scope; the required content of a draft environmental review document; the process to be followed in considering each type of environmental review document; and review deadlines.

Requires the standards to include a process for resolving disputes provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

Authorizes a local government sponsor or TxDOT to prepare an environmental review document for a highway project only if the highway project is identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or identified by TTC as being eligible for participation.

Authorizes a local government sponsor to prepare an environmental review document for a highway project that is not identified by TTC or in a transportation improvement program if the sponsor submits with its notice a fee in an amount established by TTC rule, but not to exceed the actual cost of reviewing the environmental review document.

Requires a local government sponsor, if an environmental review document is prepared by a local government sponsor, to prepare a detailed scope of the project in collaboration with TxDOT before it may process the environmental review document.

Authorizes a local government sponsor to submit notice to TxDOT proposing that the local government sponsor prepare the environmental review document for a highway project and requires that it contain certain information.

Sets forth the responsibilities and requirements of a local government sponsor to conduct its own environmental review.

Authorizes TxDOT to decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if TxDOT sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by TxDOT to be missing from the document.

Requires TxDOT to undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

Authorizes a local government sponsor to resubmit any environmental review document determined by TxDOT not to be administratively complete, and requires TxDOT to issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sets forth the review deadlines for a local government sponsor to conduct its own environmental review.

Authorizes a local government sponsor and TxDOT to enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project.

Provides that for a project for which an environmental decision requires the approval of the Federal Highway Administration, and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and TxDOT.

Sets forth the requirements for reporting to the legislature regarding the projects that are being processed and the status of those projects.

Authorizes TxDOT, a county, a regional tollway authority, or a regional mobility authority to enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

Authorizes TxDOT to enter into a separate agreement for a transportation project that it determines has regional importance.

Requires TxDOT by rule to establish a process to certify departmental district environmental specialists to work on all documents related to state and federal environmental review processes.

Requires the certification process to be available to TxDOT employees; and requires continuing education for recertification.

Requires recommendations and information submitted by TPWD in response to a request for comments from TxDOT to be submitted not later than the 45th day after the date TPWD receives the request.

Legal Sufficiency Review of a Comprehensive Development Agreement—S.B. 731

by Senator Nichols—House Sponsor: Representative Kolkhorst

The 80th Texas Legislature passed S.B. 792, which authorized counties and other entities to enter into comprehensive development agreements (CDAs) for the development of highway toll projects. As a condition imposed on the use of these CDAs, the legislature included a provision requiring toll project entities to obtain a "legal sufficiency review" from the Office of the Attorney General (OAG) prior to entering into a CDA for a new toll project.

OAG received no additional appropriation to cover the fiscal costs associated with the passage of S.B. 792. These agreements typically comprise several volumes of contractual terms and detailed material relating to the proposed toll project agreement and OAG has needed to dedicate some of its most senior attorneys to thoroughly review these agreements before issuing a determination that they are "legally sufficient." This bill:

Requires a toll project entity to pay a nonrefundable examination fee to the attorney general (OAG) on submitting a proposed comprehensive development agreement for review.

Requires the toll project entity, at the time the examination fee is paid, to also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

Requires the toll project entity to pay the examination fee for each proposed comprehensive development agreement if the entity submits multiple proposed comprehensive development agreements relating to the same toll project for review.

Requires OAG to provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings are received.

Requires OAG, if OAG cannot provide a legal sufficiency determination within the 60th business day period, to notify the toll project entity in writing of the reason for the delay and authorizes OAG to extend the review period for not more than 30 business days.

Authorizes a toll project entity, after OAG issues a legal sufficiency determination, to supplement the transcript of proceedings or amend the CDA to facilitate a redetermination by OAG of the prior legal sufficiency determination.

Authorizes the toll project entity to collect or seek reimbursement of the examination fee from the private participant.

Requires OAG by rule to set the examination fee in a reasonable amount and authorizes OAG to adopt other rules as necessary to implement this section.

Prohibits the fee from being set in an amount that is determined by a percentage of the cost of the toll project.

Provides that the amount of the fee may not exceed reasonable attorney's fees charged for similar services in the private sector.

Designating the 95th Division Memorial Highway—S.B. 743

by Senators Hegar and Van de Putte—House Sponsor: Representative Kleinschmidt

Current law does not assign a portion of State Highway 71 between the eastern municipal boundary of Bastrop and its intersection with County Road 329 any name other than State Highway 71. The 95th Division, the first to be trained at Camp Swift, captured Mince, France, during World War II, which earned them the title "Iron Men of Mince." In honor of the 95th Division's significant accomplishments and sacrifices for the state and country it is suitable to memorialize a highway in its honor. This bill:

Provides that the portion of State Highway 71 between the eastern municipal boundary of Bastrop and its intersection with County Road 329 is designated as the 95th Division Memorial Highway.

Requires TxDOT, if it receives grant or donation of funds for the design, construction, and erection of the marker, to design and construct markers indicating the highway number, the designation as the 95th Division Memorial

Highway, and any other appropriate information; and erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Charging Interest on Assessments for Certain County Road Improvements—S.B. 802

by Senator Hegar—House Sponsor: Representative Hunter

Under current law, if a county commissioners court determines that the improvement of a road in a subdivision, or of an access road to a subdivision, is necessary, the commissioners court may assess all or part of the costs of improvement proportionally against the residents of the subdivision, or a portion of the subdivision. Before doing so, notice of the improvement must be published, a public hearing must be held, and a successful referendum must occur. If all those conditions are met, the commissioners court may then implement the proposed improvements. The problem with current law is that a subdivision may fail to satisfy the assessment without penalty. This bill:

Authorizes the Commissioners Court of Aransas County, beginning on the second anniversary of the date of an assessment, by order, to require the payment of interest on an assessment.

Regional Transportation Authority Creating a Local Government Corporation—S.B. 888

by Senator Carona—House Sponsor: Representative Harper-Brown

Under current law, local governmental entities such as cities, counties, hospital districts, hospital authorities, and navigation districts are authorized to form local government corporations (LGCs) to accomplish any governmental purpose of the local government entity. LGCs can fund transportation, water and sewer infrastructure, economic development ventures, and other projects that will benefit the public. For transportation improvements, Chapter 431 (Texas Transportation Corporation Act), Transportation Code, sets specific guidelines for the creation and operation of transportation LGCs within the state. These entities are formed specifically to promote and develop transportation facilities and systems.

DART and The T, which are regional transportation authorities created under Chapter 452 (Regional Transportation Authorities), Transportation Code, do not currently have this authority. Providing this authority to DART and The T will allow them flexibility to provide expanded transit services and facilities in the North Central Texas region, improve the efficiency and transparency of delivering public transit, and reduce the timeframe for the implementation of transit projects. This bill:

Redefines "local government" to include, for purposes of Subchapter D (Local Government Corporations), a regional transportation authority.

Gold Star Military License Plates—S.B. 896

by Senator Estes—House Sponsor: Representative Laubenberg

Gold Star plates are issued to certain family members of persons who died while serving in the United States armed forces. However, a father is not authorized to be issued such a plate. Adding "father" to the list of persons eligible to apply for and receive a Gold Star specialty license plate would provide fathers the same honor bestowed to mothers, surviving spouses, and immediate family members of person who died while serving in the United States armed forces. This bill:

Authorizes TxDMV to issue a specialty license plate to the mother, father, or surviving spouse, or an immediate family member of a person who died while serving in the United States armed forces.

Requires that license plates include the words "Gold Star Mother," "Gold Star Father," "Gold Star Spouse," or "Gold Star Family" and a gold star.

Toll Collection Enforcement—S.B. 959

by Senator Wentworth—House Sponsor: Representative Pickett

Current state law limits the ability of TxDOT to implement certain policies and procedures that could ultimately lead to a more effective and efficient toll collection and enforcement process. Clarification is needed regarding TxDOT's authority related to its toll operation system, particularly the current collection processes and administrative and enforcement activities. This bill:

Authorizes TxDOT as an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, to use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll at a later date.

Authorizes TxDOT to use automated enforcement technology to identify the registered owner of the vehicle for purposes of billing, collection, and enforcement activities.

Requires TxDOT to send by first class mail to the registered owner of the vehicle a written notice of the total amount due.

Requires that the notice specify the date, which may not be earlier than the 30th day after the date the notice is mailed, by which the amount due is required to be paid.

Requires the registered owner to pay the amount due on or before the date specified in the notice.

Requires TxDOT to send the notice and subsequent notices to the registered owner's address as shown in the vehicle registration records of TxDMV or the analogous department or agency of another state or country; or an alternate address provided by the owner or derived through other reliable means.

Provides that in the event of nonpayment of the toll on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative fee.

Requires TxDOT to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of TxDMV or the analogous department or agency of another state or country or at an alternate address provided by the owner or derived through other reliable means.

Requires that the notice of nonpayment be sent by first class mail and authorizes it to require payment not sooner than the 30th day after the date the notice was mailed.

Requires the registered owner to pay a separate toll and administrative fee for each event of nonpayment.

Provides that it is an exception if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to TxDOT a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued with the name and address of the lessee clearly legible; or electronic data, in a format agreed on by TxDOT and the lessor, other than a photocopy or scan of a rental or lease contract, that contains certain information covering the vehicle on the date of the nonpayment or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued.

Provides that it is an exception to the application if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event occurred or before the date the vehicle was driven or towed through a toll collection facility that results in a notice issued, submitted written notice of the transfer to TxDOT and, before the 30th day after the date the notice of nonpayment is mailed, provides to TxDOT the name and address of the person to whom the vehicle was transferred.

Authorizes TxDOT to send all subsequent notices of nonpayment associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by the former owner or an alternate address provided by the subsequent owner of the vehicle or derived through other reliable means.

Requires the subsequent owner of the vehicle to pay a separate toll and administrative fee for each event of nonpayment.

Authorizes TxDOT to impose one administrative fee that covers multiple events of nonpayment.

Provides that in the prosecution of an offense it is presumed that the notice of nonpayment was received on the fifth day after the date of mailing; a computer record of TxDMV of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued; and a copy of the rental, lease, or other contract document, or the electronic data provided to TxDOT covering the vehicle on the date of the underlying event of nonpayment or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued is prima facie evidence of its contents and that the defendant was the registered lessee of the vehicle when the underlying event of nonpayment occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued.

Authorizes TxDOT, at the closure of an electronic toll collection customer account and at the request of the account holder, to refund the balance of funds in the account after satisfaction of any outstanding tolls and fees.

Authorizes TxDOT to enter into an agreement with a governmental or private entity regarding the use of a transponder issued by TxDOT and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

Authorizes automated enforcement technology approved by TxDOT to be used only for the purpose of producing, depicting, photographing, or recording an image that depicts that portion of a vehicle necessary to establish the classification of vehicle and the proper toll to be charged, the license plate number, and the state of registration, including an image of a license plate attached to the front or rear of a vehicle; and showing the vehicle dimensions, the presence of a trailer, and the number of axles.

Enforcement on High Occupancy Vehicle Lanes—S.B. 990

by Senator Carona—House Sponsor: Representative Harper-Brown

Under current law, regional transportation authorities created under Chapter 452 (Regional Transportation Authorities), Transportation Code—DART and The T—are responsible for enforcement of laws relating to high occupancy vehicle (HOV) lanes. These laws include such things as regulation of proper entrance into or exit from HOV structures and observation of vehicle occupancy requirements. To accomplish enforcement, the transportation authorities are authorized to issue citations to drivers who violate traffic laws in HOV lanes. HOV lane offenses are classified as Class C misdemeanors, which are prosecuted in the justice of the peace courts. Consequently, funds collected from fines related to HOV lane violations are not directed to the transportation authorities, which must bear the burden of funding enforcement efforts. This bill:

Authorizes the directors who serve as the governing body of a regional transportation authority by resolution to regulate or prohibit improper entrance into, exit from, and vehicle occupancy in HOV lanes operated, managed, or maintained by the regional transportation authority (authority).

Authorizes an executive committee by resolution to establish reasonable and appropriate methods to enforce regulations or prohibitions.

Authorizes an executive committee by resolution to provide that violations regarding improper entrance into, exit from, or vehicle occupancy in HOV lanes operated, managed, or maintained by the authority incur a penalty, not to exceed \$100.

Provides that a person commits an offense if the person fails to pay any designated penalty on or before the 30th day after the date the authority notifies the person that the person is required to pay a penalty for exiting or entering an HOV lane operated, managed, or maintained by an authority at a location not designated for exit or entrance; or operating a vehicle in or entering an HOV lane operated, managed, or maintained by an authority with fewer than the required number of occupants.

Authorizes a notice to be included in a citation issued to the person by a peace officer in connection with an offense relating to improper use of an HOV lane.

Provides that the offense is a Class C misdemeanor.

Vehicle Title Services Companies—S.B. 1035 [Vetoed]

by Senator Williams—House Sponsor: Representative Harless

The current registration rules for vehicle title service companies are regulated under Chapter 520 (Miscellaneous Provisions), Transportation Code, and are only applicable to counties with a population of more than 500,000 or in which the commissioners court by order has adopted the authorized licensing provisions. This creates a patchwork for how these laws are applied and allows companies that are doing illegitimate business to simply move counties when they get into trouble. Often when a county begins regulating a bad actor business, the business moves to an adjacent county that lacks similar regulations. This bill:

Authorizes any county to require a motor vehicle title service or a title service runner to obtain a permit from the county in which the titles are required to be filed.

Provides that the purpose of this subchapter is to protect the integrity of the submittal of transactional motor vehicle documents by nongovernmental entities through the permitting and regulation of titling services and title service runners; and the enforcement of this chapter to prevent crime, fraud, unfair practices, and discrimination.

Requires an applicant in a county that requires a motor vehicle title service permit or a title service runner permit to apply on a form prescribed by the county tax assessor-collector.

Requires that the application form be signed by the applicant and accompanied by the application fee, which is prohibited from exceeding the amount of a fee allowed under this bill regarding license fees.

Requires that an application include a statement indicating whether the applicant has previously applied for a permit, rather than a license, under this subchapter, the result of the previous application, and whether the applicant has ever been the holder of a permit, rather than a license, under this subchapter that was revoked or suspended; an affirmation of the truth of the information contained in the application signed and sworn to before an officer authorized to administer oaths; and if for a motor vehicle title service permit, an affirmation that all acts of a motor vehicle title

service's employees, agents, contractors, or title service runners are acts of the motor vehicle title service for the purposes of this subchapter.

Requires that a permit fee charged be deposited in the general fund for the county tax assessor-collector and sheriff to use for the administration and enforcement of the county's motor vehicle title service and title service runner permitting program.

Requires a holder of a motor vehicle title service permit to maintain records.

Requires a motor vehicle title service permit holder or any of its employees to allow an inspection of records by the county tax assessor-collector or a peace officer on the premises of the motor vehicle title service at any reasonable time to verify, check, or audit the records.

Requires the county tax assessor-collector to provide written notice of denial, suspension, or revocation of a permit.

Provides that the county has all powers necessary, incidental, or convenient to initiate and conduct proceedings, investigations, or hearings; administer oaths; receive evidence and pleadings; issue subpoenas to compel the attendance of any person; order the production of any tangible property, including papers, records, or other documents; make findings of fact on all factual issues arising out of a proceeding; specify and govern appearance, practice, and procedures before the county; issue conclusions of law and decisions, including declaratory decisions or orders; enter into settlement agreements; impose a sanction for contempt; assess and collect fees and costs, including attorney's fees; issue cease and desist orders in the nature of temporary or permanent injunctions; impose a civil penalty; enter an order requiring a person to pay costs and expenses of a party in connection with an order; perform an act other than the payment of money, or refrain from performing an act; and enforce a county order.

Authorizes a person, if the person has obtained a permit in this state and has been doing business in the other state for the two years preceding application, to renew an expired permit.

Authorizes a civil penalty not to exceed \$10,000 for each violation of the provisions of new Subchapter F, Chapter 520, and requires TxDMV to make rules to establish factors to be considered in determining the amount of a civil penalty. Provides that each day a violation occurs constitutes a separate violation.

Requires the county by rule to establish factors to be considered in determining the amount of the civil penalty assessed by the county.

Requires that a civil penalty recovered be deposited to the credit of the county's general fund or other fund as designated by the county.

Authorizes the county attorney or a district attorney of the county in which the motor vehicle title service is operating, rather than located, to bring an action to enjoin the operation of a motor vehicle title service or a title service runner if the motor vehicle title service permit, rather than license, holder or a runner of the motor vehicle title service while in the scope of the runner's employment is found to have committed one or more violations of or been convicted of more than one offense under this subchapter.

Requires an applicant for a motor vehicle title service license or a title service runner license to apply on a form prescribed by TxDMV.

Requires that the application form be signed by the applicant and accompanied by the application fee.

Requires that an applicant for a motor vehicle title service demonstrate that the location for which the applicant requests the license is an established permanent place of business.

TRANSPORTATION

Requires the applicant to demonstrate that the applicant intends to remain regularly and actively engaged in the business specified in the application for a time equal to at least the term of the license at the location specified in the application; and the applicant or a bona fide employee of the applicant will be at the location to transact title services; and available to the public or TxDMV at that location during reasonable and lawful business hours.

Requires TxDMV by rule to adopt fees an original license and renewal license for motor vehicle title services and for an original license and a renewal license for title service runners.

Prohibits the fee for an original license for a motor vehicle title service or for a title service runner from exceeding \$500.

Prohibits the fee for a renewal license for a motor vehicle title service or for a title service runner from exceeding \$200 annually.

Prohibits the fee for an amendment to a license issued from exceeding \$25.

Prohibits the fee for a duplicate license issued from exceeding \$50.

Prohibits an additional fee from being charged for late renewal that exceeds more than one and one-half times the renewal fee.

Requires that a fee collected be deposited to the credit of the state highway fund.

Provides that the revenue generated from the fee does not apply to money received by TxDMV and deposited to the credit of the state highway fund.

Authorizes TxDMV to refund from funds appropriated to TxDMV for that purpose a fee collected that is not due or that exceeds the amount due.

Prohibits TxDMV from issuing or renewing a motor vehicle title service license unless the applicant provides to TxDMV satisfactory proof that the applicant has purchased a properly executed surety bond in the amount of \$25,000 with a good and sufficient surety authorized by Texas Department of Insurance (TDI) in effect for at least the term of the license.

Requires that the surety bond be in a form approved by TxDMV and conditioned on the submission by the applicant of money and accurate motor vehicle documents on behalf of another person that are required to be submitted to government agencies, including county tax assessor-collectors, in order to obtain motor vehicle title or registration.

Authorizes a person to recover against a surety bond if the person obtains a judgment assessing damages and reasonable attorney's fees based on an act or omission of the bondholder on which the bond is conditioned; and that occurred during the term for which the motor vehicle title service license was valid.

Limits the liability imposed on a surety bond.

Authorizes the person, if a person's license has been expired for 90 days or less, to renew the license by paying a late fee in addition to the renewal fee.

Requires a holder of a motor vehicle title service license to maintain records as required by TxDMV rule, including any forms prescribed by TxDMV for each transaction presented to the county tax office or appropriate government office; and provide a copy of the record to the county tax assessor-collector.

Requires that records be maintained for four years from the date of the transaction.

Requires a motor vehicle title service to keep a copy of all records required under this section for at least four years after the date of the transaction; a legible photocopy of any documents submitted by a customer; and a legible photocopy of any documents submitted to the county tax assessor-collector.

Requires a motor vehicle title service license holder or any of its employees to allow during business hours at the license holder's business location an inspection of records required by TxDMV, the county tax assessor-collector, or a peace officer.

Authorizes TxDMV to deny, suspend, revoke, or reinstate a license and sets forth the grounds for denying, suspending, revoking, or reinstating a license.

Requires TxDMV to provide written notice of denial, suspension, or revocation of a license.

Authorizes a civil penalty not to exceed \$10,000 for each violation of the provisions of new Subchapter F, Chapter 520.

Requires TxDMV to make rules to establish factors to be considered in determining the amount of a civil penalty.

Authorizes the board after notice, if it appears to the board that a person is violating this subchapter or a board rule or order, to require the person engaged in the conduct to appear and show cause why a cease and desist order should not be issued prohibiting the conduct described in the notice.

Sets forth the qualifications for an interlocutory cease and desist order to be granted.

Provides that an interlocutory cease and desist order remains in effect until vacated or incorporated in a final order of the board.

Requires that an appeal of an interlocutory cease and desist order be made to the board before seeking review as provided by this subchapter.

Provides that an appeal of a permanent cease and desist order is made in the same manner as an appeal of a final order under this subchapter.

Authorizes the attorney general or a district attorney of the county in which the motor vehicle title service is operating to bring an action to enjoin the operation of a motor vehicle title service or a title service runner if the motor vehicle title service license holder or a runner of the motor vehicle title service while in the scope of the runner's employment is found to have committed one or more violations of or been convicted of more than one offense.

Authorizes the court, if the court grants relief, to enjoin the person from maintaining or participating in the business of a motor vehicle title service for a period of time as determined by the court; or declare the place where the person's business is located to be closed for any use relating to the business of the motor vehicle title service for as long as the person is enjoined from participating in that business.

Authorizes, TxDMV, if TxDMV has reason to believe, through receipt of a complaint or otherwise, that a violation of this subchapter or a rule, order, or decision of TxDMV has occurred or is likely to occur, to conduct an investigation unless it determines that the complaint is frivolous or for the purpose of harassment.

Authorizes TxDMV to investigate complaints involving an alleged violation of new Subchapter F or a rule.

Exempts certain persons and their agents from the licensing and other requirements, including a franchised motor vehicle dealer or independent motor vehicle dealer who holds a general distinguishing number issued by TxDMV; a vehicle lessor holding a license issued by TxDMV or a trust or other entity that is specifically not required to obtain a lessor license; and a vehicle lease facilitator holding a license issued by TxDMV.

Criminal Penalty for Discarding Burning Materials—S.B. 1043

by Senator Watson—House Sponsor: Representative "Mando" Martinez

Drought conditions throughout Texas create an increased risk for wildfires. Five of the last 10 years have been designated as extreme fire seasons. The Texas Forest Service reports that over 90 percent of fires are caused by human factors. Additionally, wildfires pose a significant danger to communities and infrastructure; 80 percent of wildfires burn within two miles of a community. Highway and roadside areas are also particularly susceptible to fire and human misconduct.

According to TDI, smoking and discarded matches caused 2,904 outdoor fires in 2008 alone. When a burning cigarette or match is discarded out of a car window, a wildfire could start and spread quickly. Current law prohibits an individual from discarding litter or waste on or within 300 feet of a public highway, right-of-way, or on public or private property (Section 365.012, Health and Safety Code). This bill:

Provides that a person commits an offense if the person discards lighted litter, including a match, cigarette, or cigar, onto open-space land, a private road or the right-of-way of a private road, a public highway or other public road or the right-of-way of a public highway or other public road, or a railroad right-of-way; and a fire is ignited as a result of this conduct.

Provides that this offense is a Class C misdemeanor if the litter or other solid waste to which the offense applies weighs five pounds or less or has a volume of five gallons or less.

Provides that the offense is a misdemeanor if the litter or other solid waste to which the offense applies weighs less than 500 pounds or has a volume of less than 100 cubic feet and is punishable by a fine not to exceed \$500; confinement in jail for a term not to exceed 30 days; or both such fine and confinement.

Provides that the offense is a Class B misdemeanor if the litter or other solid waste to which the offense applies weighs more than five pounds but less than 500 pounds or has a volume of more than five gallons but less than 100 cubic feet.

Provides that it is an affirmative defense to prosecution that the person discarded the lighted litter in connection with controlled burning the person was conducting in the area into which the lighted litter was discarded.

Requires the operator of a public conveyance in which smoking tobacco is allowed to post a sign stating the substance of these provisions in a conspicuous place within any portion of the public conveyance in which smoking is allowed.

Provides that if conduct that constitutes an offense of discarding lighted litter also constitutes an offense under the Penal Code relating to arson, criminal mischief, and other property damage or destruction, the actor may be prosecuted under either offense but not both.

Transfer of Vehicle Registrations at the Time of Sale—S.B. 1057

by Senator Wentworth—House Sponsors: Representatives Harper-Brown and Fletcher

Under current law, a motor vehicle dealer who holds a general distinguishing number under Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, is required to remove each license plate and registration insignia from a motor vehicle when it is sold or transferred to the dealer; however, the part of the registration period remaining at the time of the sale or transfer continues with the vehicle being sold or transferred.

Given that the registration period remains with the vehicle sold or transferred to the dealer, a motor vehicle dealer is required to determine the amount of time left on the current vehicle registration of the vehicle and register the vehicle for that period of time when the vehicle is resold. This often leads to errors in calculating the appropriate time period and leaves the buyer with some fraction of a year for their initial registration period. This bill:

Provides that the registration period remaining at the time of sale or transfer expires at the time of sale or transfer.

Requires the dealer, on the sale of a used motor vehicle by a dealer, to issue to the buyer new registration documents for an entire registration year.

Requires that the part of the registration period remaining at the time of a sale or transfer, on the sale or transfer of a motor vehicle in which neither party holds a general distinguishing number, continue with the vehicle being sold or transferred and provides that it does not transfer with the license plates or registration validation insignia.

Stress Management and Crisis Response Services—S.B. 1065

by Senator Williams—House Sponsor: Representative Hamilton

Critical incident stress management (CISM) and crisis response services are terms used to describe the process and the individuals who provide counseling services to individuals who, in the course of their duties, respond to critical incidents such as crime scenes, vehicle accidents, fires, and natural disasters. The emergency service providers, or first responders, are primarily firefighters, law enforcement officers, medical personnel, and rescue service providers. When responding to calls of duty, these individuals often encounter horrific scenes of destruction and trauma that may have a deep and lasting impact on their own well-being. Where available, a critical incident stress management team (CISM team) is often called to the scene of a critical incident to begin providing counseling and stress management services to the first responders.

Critical incidents are typically heavily investigated, scrutinized from every angle by many entities, and often result in a court case. Emergency responders are debriefed and questioned on multiple occasions and their answers are often used as testimony in subsequent court cases. The matter-of-fact nature of performing their duties is not conducive to dealing with the impact that the critical event has had on the overall well-being of the first responder. It is important to the counseling process that an emergency service responder be able to speak freely and without constraint to a CISM team member and that discussions with the CISM team member be confidential. This bill:

Provides that a meeting in which critical incident stress management services or crisis response services are provided 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.

Provides that this does not apply if the emergency service provider or the legal representative of the provider expressly agrees that the meeting may be open to the general public or to certain individuals; or the emergency service provider is deceased.

Provides that a communication made by an emergency service provider to an emergency response team member while the provider receives critical incident stress management services or crisis response services is confidential and may not be disclosed in a civil, criminal, or administrative proceeding; and a record kept by an emergency response team member relating to the provision of critical incident stress management services or crisis response services to an emergency service provider by the team is confidential and is not subject to subpoena, discovery, or introduction into evidence in a civil, criminal, or administrative proceeding.

Authorizes a court in a civil or criminal case or the decision-making entity in an administrative proceeding to allow disclosure of a communication or record if the court or entity finds that the benefit of allowing disclosure of the communication or record is more important than protecting the privacy of the individual.

Provides that a communication or record is not confidential if the emergency response team member reasonably needs to make an appropriate referral of the emergency service provider to or consult about the provider with another member of the team or an appropriate professional associated with the team; the communication conveys information that the emergency service provider is or appears to be an imminent threat to the provider or anyone else; the communication conveys information relating to a past, present, or future criminal act that does not directly relate to the critical incident or crisis; the emergency service provider or the legal representative of the provider expressly agrees that the communication or record is not confidential; or the emergency service provider is deceased.

Provides that a communication or record is not confidential to the extent that it conveys information concerning the services and care provided to or withheld by the emergency service provider to an individual injured in the critical incident or during the crisis.

Provides that an emergency response team or an emergency response team member providing critical incident stress management services or crisis response services is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to the team's or member's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

Limits liability for damages in any civil action, other than an action under statutory provisions related to medical tort liability.

Designating the Irving Diamond Interchange—S.B. 1100

by Senators Shapiro and Harris—House Sponsor: Representative Harper-Brown

The interchange located in the heart of Dallas-Fort Worth metropolitan region in Irving, Texas, at which State Highways 114 and 183, and Loop 12 intersect forms the geographic shape of a diamond and has come to be regarded as a distinctive and signature landmark in North Texas. This intersection serves significant north-south and east-west mobility needs, but has yet to be designated with the name by which it is commonly known to most North Texans. This bill:

Designates the interchange in Irving between State Highway 183, State Highway 114, Loop 12/Interstate Highway 35E, Spur 482 and Trinity Parkway, and the Orange Line of the Dallas Area Rapid Transit Authority as the Irving Diamond Interchange.

Requires TxDOT, to design and construct markers indicating the interchange number, the designation as the Irving Diamond Interchange, and other appropriate information.

Requires TxDOT to erect a marker at one or more sites on the interchange and approaching the interchange in each direction.

Operation, Powers, and Duties of Ship Channels—S.B. 1104

by Senator Jackson—House Sponsors: Representatives Wayne Smith and Legler

H.B. 3011, 80th Legislature, Regular Session, 2007, created the nation's first ship channel security district (district). The district is a cooperative effort between public and private entities to ensure the security of the Houston Ship Channel and the numerous petrochemical and manufacturing facilities located in the district.

Through assessments, the county and facilities within the district have been able to implement and maintain a security infrastructure protecting the assets found along the Houston Ship Channel. This bill:

Authorize the commissioners court that created the ship channel security district (district), after the district is created, to, by order, provide to apply to any other type of facility that the district by petition requests the court to add.

Requires the commissioners court of the county to appoint as directors for each security zone the one or two nominees, as appropriate for the staggering of terms, who received the highest number of votes in a vote by the facility owners in each security zone.

Requires each person nominated as a director to be employed by a facility owner at a facility in the zone.

Requires the commissioners court, after reviewing the list of persons nominated to be directors, to approve or disapprove the nominations for each security zone.

Provides that when a director's term expires, the successor director is appointed in the manner provided by this subchapter for that director position.

Requires the board of directors of a district (board) to determine the frequency of its meetings and authorizes the board to hold meetings at any time the board determines.

Requires the board to meet at least once per year in addition to conducting hearings as necessary to make assessments.

Requires the commissioners court to provide a quarterly financial report to the board.

Requires the board to prepare a quarterly accounting of the district's general operating and maintenance costs and that the accounting comply with generally accepted accounting principles.

Authorizes the board to impose one or more assessments against one or more facilities for any district purpose, including for general district purposes or for a specific security project or security service.

Prohibits the board from imposing the assessment until the board holds the hearing required by this subchapter.

Requires the district, not later than the 30th day before the date of the hearing, to provide notice of the hearing by certified mail, return receipt requested, to each facility owner at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility; or if the appraisal records do not accurately reflect that address or do not show the physical location of a particular facility, at the facility's physical location as reflected by any other information available.

Requires the board, after all objections have been heard and action has been taken with regard to those objections, to by resolution impose the assessments on the facilities and to specify the method of payment of the assessments.

Requires a facility to pay assessments in one lump sum on the date designated by the board, unless the board allows the assessments to be paid in periodic installments.

Provides that an assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district are a first and prior lien against the facility assessed, rather than against the property assessed; and are the personal liability of and a charge against the owners of the facility, rather than of the property, even if the owners are not named in the assessment proceedings.

Authorizes a board to petition the commissioners court of the county that created the district to add to the district territory that contains a facility in the county if the board finds that a security project or security service in the district benefits or will benefit the facility.

Requires that the petition contain information related to the possible added territory, the facilities in that territory, and the total size of territory in the district once that territory has been added.

Requires that the petition recommend a security zone in which the facility to be added should be included.

Requires that the petition describe the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility if any part of an assessment imposed by the board is allocable to the facility to be added.

Provides that the commissioners court is required to publish notice and conduct a hearing on the petition; and is authorized to grant the petition if the commissioners court determines that a security project or security service in the district benefits or will benefit the facility.

Authorizes the owner of a facility in the county to petition the board of a district requesting that the board petition the commissioners court to add to the district territory that contains the facility in the county.

Requires that the petition describe the territory and facility to be added and be signed by each owner of the facility.

Requires the board, if the board grants the petition, to petition the commissioners court to add the territory and make recommendations to the court.

Requires that the petition the board submits to the commissioners court describe the possible added territory, the facilities in that territory, and the total size of territory in the district once that territory has been added.

Requires the board to recommend the security zone in which the facility to be added should be included.

Authorizes the board to recommend modifying one or more security zones as necessary to add the facility.

Authorizes the board of a district that has four security zones to also recommend adding a fifth security zone as necessary to add the new facility.

Requires that the recommendation also note whether the security zone of any facilities will change if the petition is granted.

Requires the board to include with the petition it forwards to the commissioners court a description of the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility if any part of an assessment imposed by the board is allocable to the facility to be added.

Authorizes the commissioners court to grant the petition.

Authorizes a board, on the request of a facility in the district or on its own motion, to petition the commissioners court of the county that created the district to exclude territory and included facilities from the district.

Requires that the petition include a finding by the board that excluding the territory is practical, just, and reasonable; a description of the territory to be excluded; and a description of the total territory of the district after the exclusion of the territory.

Authorizes the petition to include recommendations to modify one or more security zones or eliminate a security zone, provided that the district may not have fewer than four security zones; and modify assessments that the facility has not paid.

Provides that the commissioners court is required to publish notice and conduct a hearing on the petition; and is authorized to grant the petition if the commissioners court finds that exclusion of the territory that contains the facility is practical, just, and reasonable.

Requires a commissioners court that excludes territory to modify the order that created the district to modify the territory; exclude the facility; describe any security zones modified or eliminated under this section, including the location of any facilities whose zone has changed; and modify unpaid assessments, as applicable.

Colonel Bill Card Boulevard—S.B. 1248

by Senators Lucio and Hinojosa—House Sponsor: Representative Lucio III

Currently, Loop 499 in Cameron County has no designation beyond County Road 109. Designating this segment of Loop 499 as Colonel Bill Card, Jr., Boulevard would honor the accomplishments of a former mayor of Harlingen and a Pearl Harbor survivor for his honorable service to his country and to his community. This bill:

Designates the portion of State Highway 499 from U.S. Highway 77 to County Road 106, as the Colonel Bill Card, Jr., Boulevard.

Requires TxDOT, to design and construct markers indicating the highway number, the designation as the Colonel Bill Card, Jr., Boulevard, and any other appropriate information; and erect a marker at each end of the boulevard and at appropriate intermediate sites along the boulevard, only if a grant or donation is made to cover the cost.

Designating Certain Highways the Purple Heart Trail—S.B. 1311

by Senator Lucio et al.—House Sponsor: Representative Lozano et al.

The Purple Heart Trail is a symbolic trail that runs through all 50 states to honor those who have been killed or wounded in combat while serving in the United States armed forces. In current law, Section 225.0225, Transportation Code, establishes the Texas portion of the national Purple Heart Trail on the Texas portion of Interstate Highway 35. The signs designating the Purple Heart Trail on the highway are located at each end of the highway and intermediately no more than 100 miles apart. Furthermore, the money used to erect those signs came from donations, meaning there was no fiscal impact to the state. This bill:

Provides that the following highways are designated as the Texas portion of the national Purple Heart Trail: the part of Interstate Highway 35 located in Texas; the part of Interstate Highway 40 located in Texas; the part of Interstate Highway 37 from Interstate Highway 35 to U.S. Highway 77; the part of U.S. Highway 77 from Interstate Highway 37 to State Highway 100; State Highway 100; and Park Road 100.

Requires TxDOT to erect a marker at locations along the trail that TxDOT determines are appropriate.

Driving Safety Courses for Individuals Younger than 25—S.B. 1330

by Senator Watson—House Sponsor: Representative Naishtat

Recent studies suggest that driving accidents account for up to 44 percent of all teenage deaths, making it the leading cause of death among teenagers in the United States. In addition to lack of experience with driving, teenagers face distractions such as talking and texting on cell phones and dealing with young, inexperienced passengers who sometimes behave inappropriately. The influence of drugs and alcohol is another factor in teenage driving accidents. In this environment, learning the skills of safe, defensive driving becomes much more important.

In Texas, neither the defensive driving curriculum nor the driving safety curriculum (commonly known as "ticket dismissal classes") include instruction on the unique challenges faced by young drivers. This bill:

Requires the judge, during the deferral period, that if the defendant is younger than 25 years of age and the offense committed by the defendant is a traffic offense classified as a moving violation to require the defendant to complete a driving safety course approved under Chapter 1001 (Driver and Traffic Safety Education), Education Code, and authorizes the judge to require the defendant to complete an additional driving safety course designed for drivers younger than 25 years of age and approved under the below provision.

Requires the commissioner of education (commissioner) by rule to provide minimum standards of curriculum for and to designate the educational materials to be used in a driving safety course designed for drivers younger than 25 years of age.

Requires that a driving safety course designed for drivers younger than 25 years of age:

- be a four-hour live, interactive course focusing on issues specific to drivers younger than 25 years of age, including instruction in:
 - alcohol and drug awareness;
 - the traffic laws of this state;
 - the high rate of motor vehicle accidents and fatalities for drivers younger than 25 years of age;
 - the issues commonly associated with motor vehicle accidents involving drivers younger than 25 years of age; and
 - the importance of taking control of potentially dangerous driving situations both as a driver and as a passenger; and
- require a written commitment by the student to family and friends that the student will not engage in dangerous driving habits.

Requires that a course approved for use under this section before January 1, 2012, comply with the requirements in this bill and be approved for that purpose by the commissioner not later than January 1, 2012.

Requires TEA to adopt the rules required by this Act as soon as practicable after the effective date of this Act.

Refusal to Register Motor Vehicle by a County Assessor-Collector—S.B. 1386

by Senator Lucio—House Sponsor: Representative Oliveira

Under current statute a county assessor-collector may refuse to register a motor vehicle if the owner owes the county money for a fine, fee, or tax that is past due. There is a loophole for cases that are not adjudicated. This bill attempts to close that loophole. This bill:

Authorizes a county assessor-collector or TxDMV to refuse to register a motor vehicle if the assessor-collector or TxDMV receives information that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due; or failed to appear in connection with a complaint or citation relating to a county fine, fee, or tax.

Authorize a county that has a contract with TxDMV to collect an additional fee of \$20 from a person who fails to pay a fine, fee, or tax to the county on the due date, or who fails to appear regarding a complaint, citation, information, or indictment.

Authorizes the additional fee to be used only to reimburse TxDMV or the county assessor-collector for its expenses for providing services under the contract.

Authorizes a municipality that has a contract with TxDMV or a county to collect an additional fee of \$20 from a person who has an outstanding warrant with a municipality for failure to appear to a pay a fine on a complaint, citation, information, or indictment for a traffic violation.

Coordinated County Transportation Authorities—S.B. 1422

by Senators Nelson and Harris—House Sponsor: Representative Solomons

Currently, three municipalities have confirmed their participation in the Denton County Transportation Authority (DCTA) through an election in accordance with Chapter 460 (Coordinated County Transportation Authorities), Transportation Code. These cities assess a sales tax of one-half of one cent to fund that service. More cities in the service area would like to participate, but many have already reached the local maximum sales tax rate of two percent. Authorizing the city to establish Public Transportation Financing Areas, which leverage incremental tax revenue increases attributed to transit service, will help finance their membership into DCTA. This bill:

Creates a misdemeanor offense punishable by a fine not to exceed \$100 if a coordinated county transportation authority does not receive a payment of a transportation fare.

Authorizes a justice court to enter into an agreement with an authority located in the service area to try all criminal cases.

Authorizes a service plan to be implemented in an area of the county participating in the authority only if the authorization of a tax levy is approved by a majority of votes.

Specifies procedures and processes for the board of an authority, including fare officers eligibility requirements to enforce fare collections.

Increases the aggregate amount from \$25,000 or less to \$50,000 or less at which a board of directors could negotiate a contract for without competitive sealed bids or proposals.

Provides that a service plan may be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy if the authorization by the municipality of the authority's sales and use tax levy, when combined with the rates of all sales and use taxes imposed in the municipality, would exceed two percent in any location in the municipality and the municipality has entered into an agreement with the authority to provide public transportation services in a public transportation financing area (PTFA) in exchange for all or a portion of the tax increment in the area.

Authorizes the governing body of a municipality to designate a contiguous geographic area within the municipality to be a PTFA.

Requires the governing body to establish a tax increment account and maintain the account as a fiduciary of the municipality for the allowable sources for a tax increment and determine the allowable uses of account deposits.

Requires the governing body, prior to spending the account revenue, to enter into an agreement with the comptroller of public accounts to authorize and direct the comptroller to manage the account.

Specifies procedures and requirements of an authority and a municipality, including the allowable uses for surplus tax increment payment amounts and the requirements for terminating a PTFA.

Addition of a County to a Freight Rail District—S.B. 1578

by Senator Williams—House Sponsor: Representative Deshotel

The Gulf Coast Rail District was created by the 79th Legislature, under Chapter 171 (Freight Rail Districts), Transportation Code. Under Chapter 171, a county is eligible to create a freight rail district if the county has a population of 3.3 million or more. Counties that are adjacent to the eligible county are permitted to join the district once it is established.

In 2007, Harris County, the City of Houston, and Fort Bend County created the Gulf Coast Freight Rail District. The name has since changed to the Gulf Coast Rail District, and the counties of Galveston and Waller have joined the district. The Gulf Coast Rail District's goal is to develop and implement a systematic approach to improvement of the regional rail network for the benefit of the region's residents and economy. Jefferson County would like to join the Gulf Coast Rail District. This bill:

Provides that the district consists of each county that created the district; each county added to the district; and the territory of the most populous municipality in the most populous county if that municipality's territory is located in more than one county.

Authorizes a county to be added to a district if the county is adjacent to a county with a population of 3.3 million or more that created the district; or the county is adjacent to a county that is added to the district and contains a navigation district.

Requires that the following bodies by joint resolution approve the addition of the county to the district: the commissioners court of the county to be added to the district; the commissioners court of each county in the district; and the governing body of the most populous municipality in the most populous county in the district.

Requires that the resolution include the number of directors the new county will have on the board.

Provides that on adoption of the resolution by each commissioners court and the governing body of the municipality, the county is added to the district.

Provides that the board consists of directors, including a presiding officer, as provided in the order or ordinance creating the district.

Requires the board to add directors for each county added to the district as provided in the joint resolution adding the county.

Authorizes a district to contract with any person, including a county or municipality, including a county or municipality that is a member of the district, rather than that created the district; this state or any political subdivision of this state; the United States; or a railroad.

Driving Without a Driver's License or Liability Insurance—S.B. 1608

by Senator Carona—House Sponsor: Representative Eddie Rodriguez

The 81st Legislature, Regular Session, 2009, enacted H.B. 2012 amending Chapter 521 (Driver's Licenses and Certificates), Transportation Code, to provide that a person commits a Class B misdemeanor if a person commits an offense of driving without a valid driver's license and at the time is also operating a motor vehicle without maintaining liability insurance. If, at the time a person is driving without a valid driver's license, that person causes or is at fault in a motor vehicle accident that results in serious bodily injury to or death of another and is driving without maintaining liability insurance, the offense would be a Class A misdemeanor. However, the bill's provisions did not address circumstance where a person does not possess a driver's license. This bill:

Provides that a person who does not possess a driver's license commits an offense, which is a misdemeanor punishable by a fine not to exceed \$200, except that for a second conviction within one year after the date of the first conviction, the offense is a misdemeanor punishable by a fine of not less than \$25 or more than \$200; for a third or subsequent conviction within one year after the date of the second conviction the offense is a misdemeanor punishable by a fine of not less than \$25 or more than \$500, confinement in the county jail for not less than 72 hours or more than six months, or both the fine and confinement; and if it is shown on the trial of the offense that at the time of the offense the person was operating the motor vehicle in violation of not having insurance; and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person, an offense is a Class A misdemeanor.

School Bus Seat Belt Requirements—S.B. 1610

by Senators Lucio and Williams—House Sponsor: Representative Hamilton

In 2007, the legislature enacted H.B. 323, requiring the installation of three-point, lap shoulder seat belts on all new school buses purchased on or after September 1, 2010. The law would be effective only if the legislature appropriated state funds to reimburse school districts for expenses incurred in complying with the law. In 2009, the legislature created the Texas School Seat Belt Program, appropriating \$10 million to reimburse school districts for the expense of installing the seat belts. An additional \$400,000 was allocated for the Texas Transportation Institute to develop a priority implementation plan maximizing student safety and cost by determining the most dangerous bus routes in Texas. TEA was tasked with administering the reimbursement plan.

Section 547.701(f) (relating to additional equipment requirements for school buses and other buses used to transport schoolchildren), Transportation Code, was added in 2009 to reassert that this is a state-funded reimbursement program. However, rather than clarifying intent, this section has been a source of confusion to school districts and TEA. This bill:

Requires a school district to comply with the requirement that a bus operated by or contracted for use by a school district for the transportation of schoolchildren be equipped with a three-point seat belt for each passenger, including the operator only to the extent that the legislature has appropriated money for the purpose of reimbursing school districts for those expenses incurred in complying.

Grant Program to Support Prosecution of Certain Crimes—S.B. 1649

by Senators Watson and Davis—House Sponsor: Representative Margo

Border crime has been a growing concern in Texas for a number of years. Border communities bear a significant financial burden from drug and human trafficking crimes, including the cost of prosecuting individuals accused of those crimes.

In response to this situation, the 81st Legislature funded a \$4 million grant program for border region district attorneys working on issues related to border crime. The grant is administered through the criminal justice division of the governor's office. Funding came from the Operators and Chauffeurs License fund. This bill:

Requires the criminal justice division in the governor's office (criminal justice division) 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 the prosecution of border crime in a county or counties under the jurisdiction of the attorney.

Requires the criminal justice division to establish additional eligibility criteria for grant applicants; grant application procedures; guidelines relating to grant amounts; procedures for evaluating grant applications; and procedures for monitoring the use of a grant awarded under the program and ensuring compliance with any conditions of a grant.

Authorizes undedicated and unobligated funds in the operators and chauffeurs license account to be appropriated only to the criminal justice division for the purpose of awarding grants of the aforementioned purposes.

Exempts the revenue deposited into that account from the application of dedicated revenue.

Requires the criminal justice division to include in the biennial report a detailed reporting of the results and performance of the grant program administered under this section.

Grand Parkway Comprehensive Development—S.B. 1719

by Senator Williams—House Sponsor: Representative Fletcher

The Grand Parkway (State Highway 99) is the outer beltway around the Houston metropolitan area. The Grand Parkway project is in excess of 180 miles and traverses a seven-county region. This project will help relieve some of the congestion in the Houston area.

Planning for the Grand Parkway began in the 1960s, but only two segments of the project currently exist. The counties along the Grand Parkway corridor, in coordination with TxDOT, entered into a market valuation agreement to develop the remaining portions of the project. This bill:

Provides that any authority for TxDOT to enter into a comprehensive development agreement relating to improvements to Grand Parkway (State Highway 99) does not affect the obligation of TxDOT to comply with the applicable requirements of an agreement entered into under Section 228.0111 (Toll Projects of Local Toll Project Entities), in connection with the Grand Parkway project, including complying with the terms and conditions for the development, construction, and operation of the Grand Parkway that are prescribed in such an agreement.

El Camino Real de los Tejas National Historic Trail as a Historic Highway—S.B. 1831

by Senators Wentworth and Nichols—House Sponsor: Representative Doug Miller

The El Camino Real de las Tejas National Historic Trail (trail) runs from the East Texas border near San Augustine to the South Texas border near Laredo. The trail was originally established to connect a series of missions and posts between Monclova, Mexico, and Los Andaes, the first capital of the province of Texas. The trail constituted the only primary overland route from the Rio Grande to the Red River Valley in Louisiana during the Spanish colonial period from 1690 to 1821.

The United States Congress added the trail to the National Trails System on October 18, 2004, and its designation commemorates significant historic routes extending from the United States-Mexico international border at the Rio Grande to the eastern boundary of the Spanish province of Texas in Natchitoches Parish, Louisiana. This bill:

Requires THC to cooperate with TxDOT to designate, interpret, and market the El Camino Real de los Tejas National Historic Trail (trail) as a Texas historic highway.

Authorizes THC and TxDOT to supplement revenue available for this purpose and to pursue federal funds dedicated to highway enhancement.

Prohibits a designation of the trail as a Texas historic highway from being construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

Provides that TxDOT is not required to design, construct, or erect a marker unless a grant or donation of funds is made to TxDOT to cover the cost of the design, construction, and erection of the marker.

Requires that money received to cover the cost of the marker be deposited to the credit of the state highway fund.

Sergeant Jay M. Hoskins Memorial Highway—S.B. 1925

by Senator Eltife—House Sponsor: Representative Cain

Sergeant Jay M. Hoskins of the United States Marine Corps was killed in action on August 6, 2009, in Afghanistan. Sergeant Hoskins, 24, became the first Paris native son to make the supreme sacrifice for his country since the war in the Middle East began following the terrorist attacks of September 11, 2011. It was the 2003 North Lamar High School graduate's third combat deployment since joining the Marine Corps following high school graduation.

Hoskins and two other Marines were killed in Afghanistan by a roadside bomb while supporting combat operations in Farah province. Hoskins served tours in Iraq in 2004 and in Afghanistan in 2005. While in Iraq, he participated in the Battle of Fallujah and received a Navy Unit Commendation medal, given by then-President George W. Bush for what his unit accomplished during the assignment.

In 2005, he served seven months in the Toro Boro area in the Afghanistan mountains, receiving his first two Afghanistan Campaign medals. He also was the recipient of three combat ribbons, three sea service deployment ribbons, an Iraqi Campaign medal, a Navy Marine Corps Achievement medal, a National Defense Service medal, a Global War on Terror Service Medal, and a Purple Heart.

This bill honors Hoskins by designating a portion of U.S. Highway 271 as the Sergeant Jay M. Hoskins Memorial Highway. This bill:

Designates the portion of U.S. Highway 271 from Loop 286 north to the Texas-Oklahoma border as the Sergeant Jay M. Hoskins Memorial Highway.

Requires TxDOT to only use grants or donations to design, construct, and erect a marker indicating the highway number, the designation as the Sergeant Jay M. Hoskins Memorial Highway, and any other appropriate information; and erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Energy Efficiency Standards for Certain Buildings—H.B. 51

by Representatives Lucio III et al.—Senate Sponsor: Senator Hinojosa

According to the United States Department of Energy's Energy Information Administration, commercial buildings alone account for 18 percent of total energy consumption. This bill:

Requires that the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than \$2 million, or, if less than \$2 million, more than 50 percent of the value of the building, structure, or other facility, if any part of the construction or renovation is financed by revenue bonds issued under Chapter 55 (Financing Permanent Improvement), Subchapter B (Revenue Bonds and Facilities), Education Code, be designed and constructed or renovated so that it complies with high-performance building standards, approved by the board of regents of an institution, that provide minimum requirements for energy use, natural resource use, and indoor air quality.

Requires a board of regents to consider, but not be subject to, the high-performance building evaluation system approved by the State Energy Conservation Office (SECO) and authorizes the board of regents to solicit and consider recommendations from an advisory committee.

Provides that except as provided in Section 55.115 (High-Performance, Sustainable Design, Construction, and Renovations Standards for Certain Facilities), Education Code, a certain building, structure, or facility to which the section applies is required to be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by SECO unless the institution constructing the building determines that compliance with those standards is impractical and notifies SECO of the determination and provides supporting documentation.

Requirements for Certificate of Convenience and Necessity—H.B. 971

by Representative Phil King et al.—Senate Sponsor: Senator Fraser

Currently, a transmission and distribution company applying to the Public Utility Commission of Texas (PUC) for a certificate of convenience and necessity to build a new transmission line must designate a preferred route from among all of the proposed routes shown in the application. The preferred route designation is based on several criteria used by PUC to determine the best possible route. When a landowner whose property lies along any of the proposed routes receives notice of the application, the landowner will note whether the property lies on the preferred route. The landowner is given a certain amount of time to file as an intervenor in the case. As an intervenor, the landowner has the opportunity to submit written testimony and testify before an administrative law judge and PUC in opposition to the transmission line. Often, when a landowner receives the notice and sees that the landowner's property does not lie on the preferred route, the landowner assumes that the property will not be affected for that reason and consequently does not file as an intervenor. If the landowner later finds out that the preferred route was not the route that the PUC chose for the transmission line and instead chose the route crossing the landowner's property, the landowner has no recourse and must accept the fact that a new transmission line built will be built on the property, having had no say in the matter. This bill:

Prohibits the PUC from requiring the applicant to designate a preferred route for a proposed transmission line facility.

Provides that for transmission facilities ordered or approved by PUC, the rights extended to an electric corporation under Section 181.004 (Condemnation of Property), Utilities Code, include all public land, except land owned by the state, on which PUC has approved the construction of the line.

Does not limit a municipality's rights or an electric utility's obligations and requires that nothing in certain sections of the bill be interpreted to prevent a public entity from expressing a route preference in a proceeding.

Requires PUC by rule to establish criteria for granting a certificate for a transmission project that serves the Electric Reliability Council of Texas power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone.

Requires that the criteria include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project.

Requires PUC to include with its decision on an application for a certificate findings on the criteria.

Demand Ratchet Charges—H.B. 1064

by Representative Pitts et al.—Senate Sponsors: Senators Elife and Carona

Currently some non-residential electricity consumers are assessed a demand ratchet charge. A demand ratchet is a billing mechanism that allows a transmission and distribution utility to assign costs to those customers who caused the utility to incur the costs. This system includes customers who have limited or seasonal usage. Changing the billing system from one based on a ratcheted demand to one based on actual demand for a customer who falls under this latter category would alleviate some cost pressures that such a utility faces while contemplating the utility's duty to provide reliable electric service. This bill:

Requires PUC by rule, notwithstanding any other provision of the Utilities Code, 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;
- implement procedures to verify annually whether each nonresidential secondary service customer has a maximum load factor that qualifies the customer for the waiver;
- specify in the utility's tariff whether the utility's nonresidential secondary service customers that qualify for the waiver are to be billed for distribution service charges on the basis of kilowatts, kilowatt-hours, or kilovolt-amperes; and
- modify the utility's tariff in the utility's next base rate case to implement the waiver and make the required specification.

Reporting Requirements for Public Utility Transactions—H.B. 1753

by Representatives Gallego et al.—Senate Sponsor: Senator Uresti

Current statute requires that a public utility report any sale, acquisition, or lease of a plant as an operating unit or system in Texas with a cost of more than \$100,000. This reporting requirement not only applies to a utility plant, but also to capital investments including electric equipment, capital costs, wires, and poles. The Federal Energy Regulatory Commission (FERC) raised the federal sales, transfer, or merger filing threshold from \$50,000 to \$10 million. This bill:

Prohibits a public utility, unless the public utility reports the transaction to PUC within a reasonable time, from selling, acquiring, or leasing, a plant as an operating unit or system in this state for a total consideration of more than \$10 million; or merging or consolidating with another public utility operating in this state.

Rates for Certain Municipal Utility Systems—H.B. 2207

by Representative Oliveira—Senate Sponsor: Senator Lucio

A municipally owned utility company is currently able to allow a board of trustees to set electric rates and related terms for an applicable system by municipal ordinance. To grant certain municipalities the ability to grant boards of trustees of municipally owned utilities similar authority for water and sewer services, the Local Government Code must be amended. This bill:

Provides that in a municipality with a population of more than one million but less than two million, the first lien against the revenue of a municipally owned utility system that secures the payment of public securities issued or obligations incurred under this chapter also applies to funding for a bill payment assistance program for certain utility customers.

Expands the applicability of provisions of law relating to the management of certain encumbered municipal water systems to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system and by ordinance elects to have the management and control of two or more such utility systems governed by those provisions of law, and that meets certain other requirements, to make those provisions applicable to such a municipality that by charter elects to have management and control of two or more of those systems, in addition to meeting the other requirements.

Authorizes the board of trustees to set rates and related terms for the municipal utility systems.

Administration of the Texas Universal Service Fund—H.B. 2295

by Representative Frullo—Senate Sponsor: Senator Hegar

Current law sets forth nine programs that are to be supported by the Texas Universal Service Fund. The first program is to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural area. This purpose is being accomplished through two different plans created by rule—the Texas High Cost Universal Service Plan and the Small and Rural Incumbent Local Exchange Company Universal Service Plan. The Texas High Cost Universal Service Plan and the Small and Rural Incumbent Local Exchange Company Universal Service Plan are not currently separated in statute. This bill:

Requires PUC to adopt and enforce rules requiring local exchange companies to establish a universal service fund to, among other purposes, assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas under two plans: the Texas High Cost Universal Service Plan (16 T.A.C. Section 26.403), and the Small and Rural Incumbent Local Exchange Company Universal Service Plan (16 T.A.C. Section 26.404).

Water Facility Emergency Preparedness Information—H.B. 2619

by Representative Callegari—Senate Sponsor: Senator Whitmire

Currently, water utilities in Harris County (affected utilities) are required to prepare an emergency plan for the provision of service during an extended power outage as soon as safe and practicable after a natural disaster. Water utilities are required to report certain information, including their emergency preparedness plan as well as identifying and emergency contact information, to certain entities, including the county judge. This bill:

Deletes existing text providing that the county judge is among the entities to whom an affected utility is required to give a copy of the affected utility's emergency preparedness plan and the Texas Commission on Environmental Quality's (TCEQ) notification to the affected utility that the plan is accepted.

Requires each affected utility to submit certain information to each electric utility that provides transmission and distribution service to the affected utility, each retail electric provider that sells electric power to the affected utility, the office of emergency management of each county in which the utility has water and wastewater facilities that qualify for critical load status under rules adopted by PUC, PUC, and the division of emergency management of the office of the governor.

Requires an affected utility to annually submit the required information 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, and immediately update the information as changes to the information occur.

Requires each affected utility to submit annually 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 any forms reasonably required by an electric utility or retail electric provider for determining critical load status, including a critical care eligibility determination form or similar form.

Requires the electric utility and the retail electric provider, if an electric utility determines that an affected utility's facilities do not qualify for critical load status, not later than the 30th day after the date the electric utility or retail electric provider receives the 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.

Minor Rate Changes by Small Local Exchange Companies—H.B. 2680

by Representative Tracy O. King—Senate Sponsor: Senator Hegar

Currently, certain small local exchange companies are authorized to make minor changes to rates up to 10 percent and offer certain services to customers by making an administrative filing with PUC not later than 91 days prior to the change or offering. The 10 percent limitation forces them to either engage in a very involved and costly process to effect a rate change or spread out a change over so many years that the response is ineffective. This bill:

Provides that with regard to a change to a basic local access line rate, 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 50 percent, rather than an increase of more than 10 percent.

Authorizes an incumbent local exchange company to offer an extended local calling service, a packaged service, or a new or promotional service on an optional basis or make a minor change in its rates or tariffs if the company files with PUC and the Office of Public Utility Counsel (OPUC) notice not later than the 10th day before the effective date of the proposed change,

Requires that notice be provided not later than the 10th day, rather than 61st day, before the effective date of the proposed change.

Water Audits by Certain Retail Public Utilities—H.B. 3090

by Representative Creighton—Senate Sponsor: Senator Nichols

Currently, retail public utilities providing water within Texas are required to file a standardized water audit once every five years with the Texas Water Development Board (TWDB). This bill:

Requires a retail public utility providing potable water that receives financial assistance from TWDB, except as provided by Subsection 16.0121(b-1) (relating to requiring a public utility providing potable water that does not receive financial assistance from TWDB to perform and file a water audit every five years), Water Code, to perform and file with TWDB an annual water audit computing the utility's system water loss during the preceding year to perform and file with TWDB a water audit computing the utility's most recent annual system water loss.

Disclosure of Natural or Liquid Propane Gas on Residential Real Property—H.B. 3389

by Representative Workman—Senate Sponsor: Senator Watson

A seller of residential real property is not required to provide certain disclosure regarding the seller's knowledge of the condition of the property, specifically with regard to the provision of natural gas or propane gas on the property. This bill:

Requires that the seller's notice provided to the purchaser of residential real property be executed and, at a minimum, read substantially similar to certain language set forth in Section 5.008(b) (relating to a seller's disclosure of property condition), Property Code.

Exemption of Certain Electric Cooperatives From Certain Regulations—S.B. 312

by Senators Seliger and Duncan—House Sponsor: Representative Keffer

Texas has and continues to develop a diverse energy portfolio. In some areas of the state, wind energy is viable; however, if sufficient wind is not produced, a utility must use gas generating facilities. Under current Texas law, if an electric cooperative contracts with a third party to provide gas in storage, it would be classified as a gas utility. This bill:

Provides that the provisions of Chapter 111 (Common Carriers, Public Utilities, and Common Purchasers), Natural Resources Code, and any common law requirements or limitations applicable to a common carrier, do not apply to an underground storage facility owned or operated by an electric cooperative or its subsidiary, that sells electricity at wholesale and offers or provides gas storage services to the public for hire if the gas storage facility is predominately operated to support the integration of renewable resources. Prohibits such a gas storage facility from having a working gas capacity of greater than five billion cubic feet.

Distributed Generation of Electric Power—S.B. 365

by Senator Ogden—House Sponsor: Representative Strama

Significant amounts of natural gas are currently wasted, stranded, or underutilized for a number of reasons. Legislation is needed to open the electric market for small power generators in order to help address this problem, increase the production of electricity in Texas, and allow small generators of electricity to connect to the grid and sell their power. This bill:

Authorizes a person who owns or operates a distributed natural gas generation facility to sell electric power generated by the facility.

Authorizes the electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility to purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility.

Authorizes the value of the electric power to be based 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.

Requires the electric utility or electric cooperative, at the request of the owner or operator of the distributed natural gas generation facility, to allow the owner or operator of the facility to use transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with PUC rules or a tariff approved by FERC.

Authorizes the electric utility or electric cooperative, if the owner or operator of a distributed natural gas generation facility requests to be interconnected to an electric utility or electric cooperative, to recover from the owner or operator of the facility the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection of the facility.

Authorizes an electric utility or electric cooperative to recover from the owner or operator of a distributed natural gas generation facility the reasonable costs of electric facility upgrades and improvements if the rated capacity of the distributed natural gas generation facility is greater than the rated capacity of the electric utility or electric cooperative; and the costs are necessary for and directly attributable to accommodating the distributed natural gas generation facility's capacity.

Authorizes an electric utility or electric cooperative to recover costs only if the electric utility or electric cooperative provides a written good-faith cost estimate to the owner or operator of the distributed natural gas generation facility; and the owner or operator of the distributed natural gas generation facility agrees in writing to pay the reasonable and necessary costs of interconnection or capacity accommodation requested by the owner or operator and described in the estimate before the electric utility or electric cooperative incurs the costs.

Requires PUC, if an electric utility or electric cooperative seeks to recover from the owner or operator of a distributed natural gas generation facility an amount that exceeds the amount in the estimate by more than five percent, to resolve the dispute at the request of the owner or operator of the facility.

Requires that a distributed natural gas generation facility comply with emissions limitations established by TCEQ for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

Provides that a section of this bill does not require an electric cooperative to transmit electricity to a retail point of delivery in the certificated service area of the electric cooperative if the electric cooperative has not adopted customer choice.

Authorizes PUC to establish simplified filing requirements for distributed natural gas generation facilities.

Consideration of Pension and Other Benefits in Establishing Rates—S.B. 403

by Senator Eltife—House Sponsor: Representative Murphy

In recent years, pensions and retiree healthcare benefits have become more volatile due to growing obligations resulting from increased life spans and dramatic increases in healthcare expenses. This bill:

Requires the Railroad Commission of Texas (railroad commission) or the governing body of a municipality (regulatory authority), in establishing a gas utility's rates, to allow the recovery of the gas utility's costs of pensions and other

postemployment benefits, as determined by actuarial or other similar studies in accordance with generally accepted or accounting principles, in amounts the regulatory authority finds reasonable and necessary.

Requires a gas utility, if the gas utility established one or more reserve accounts for the purpose of tracking changes in the costs of pensions and other postemployment benefits, to periodically record in a reserve account any difference between the annual amount of a pension and other postemployment benefits approved and included in the gas utility's then-current rates or, if that annual amount cannot be determined from the regulatory authority's order, the amount recorded for pension and other postemployment benefits under generally accepted accounting principles during the first year that rates from the gas utility's last general rate proceeding were in effect and the annual amount of costs of pensions and other postemployment benefits as determined by actuarial or other similar studies that would otherwise be recorded by the gas utility were this provision not applicable.

Requires the gas utility to establish separate reserve accounts for pensions and for other postemployment benefits and apply the same methodology to allocate pension and other postemployment benefits between capital and expenses in the gas utility's last rate case.

Requires the regulatory authority at a subsequent general rate proceeding, if the gas utility establishes reserve accounts for the costs of pensions and other postemployment benefits, to review the amounts recorded to each reserve account to determine whether the accounts are reasonable and necessary; determine whether each reserve account has a surplus or shortage; and subtract any surplus from or add any shortage to the gas utility's rate base, with the surplus or shortage amortized over a reasonable time.

Telecommunications Service Discounts—S.B. 773

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

In 1995, the state telecommunications discount (discount) was created to provide network or broadband services to public entities such as schools, libraries, hospitals, telemedicine centers, and public hospitals at a reasonable cost. The discount program specifies that telecommunications providers are authorized to recoup their full cost but limits the percentage of additional returns on certain network or broadband services for public educational institutions. Incumbent local exchange carriers cannot charge eligible entities more than 110 percent of long run incremental costs. Without the discount, many institutions that rely on the discounts may have to cut programs, eliminate positions, and pass on costs to the public, cities, or counties to cover the costs of broadband services. A 2006 PUC report estimated the value of the telecommunications discount to be \$95 million and concluded that institutions relied heavily on discounts to fulfill their missions. The expiration of the discounts in 2012 could have a significant, adverse impact on schools, libraries, and healthcare institutions. This bill:

Requires an electing company, on customer request, to provide private network services to an educational institution, a library, a nonprofit telemedicine center, a public or not-for-profit hospital, a legally constituted consortium or group of entities, or a health center.

Requires an electing company to offer private network service contracts at 110 percent of the long run incremental cost of providing the private network service, including installation.

Prohibits an electing company's rates for private network services, notwithstanding the authorized pricing flexibility, from being increased before January 1, 2016.

Requires an electing company to continue to comply with this Subchapter (Infrastructure Commitment to Certain Entities), Chapter 59 (Infrastructure Plan), Utilities Code, until January 1, 2016, notwithstanding any other provision, regardless of the date the company elected under Chapter 59, or any action taken in relation to that company under Chapter 65 (Deregulation of Certain Incumbent Local Exchange Company Markets), Utilities Code.

Extension of Energy Efficiency Goals—S.B. 898

by Senator Carona—House Sponsor: Representative Cook

The statutory requirement for certain state and political subdivisions in air quality non-attainment areas to report energy efficiency goals will expire in 2012. In order to reduce electricity consumption, Chapter 388 (Texas Building Energy Performance Standards), Health and Safety Code, currently mandates that each political subdivision, institution of higher education, or state agency implement all energy efficiency measures that meet energy conservation standards established under the Local Government Code. The requirement to establish a goal to reduce electric consumption by five percent expires in 2012. This bill:

Requires each political subdivision, institution of higher education, or state agency to establish a goal to reduce the electric consumption by the entity by at least five percent, each state fiscal year for 10 years, beginning September 1, 2011.

Requires a political subdivision, institution of higher education, or state agency that does not attain the goals established to include in the required report justification that the entity has already implemented all available measures.

Requires a political subdivision, institution of higher learning, or state agency annually to report to the State Energy Conservation Office (SECO), on forms provided by that office, regarding that entity's goal, the entity's efforts to meet the goal, and progress the entity has made under this section.

Requires SECO to provide assistance and information to the entity to help the entity meet goals established under this section and requires SECO to develop and make available a standardized form for reporting purposes.

Requires SECO annually to provide TCEQ and the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System (laboratory) with an evaluation of the effectiveness of state and political subdivision energy efficiency programs.

Requires the laboratory to calculate, based on the evaluation and the forms submitted to SECO, the amount of energy savings and estimated reduction in pollution achieved as a result of the implementation of programs.

Requires the laboratory to share the information with TCEQ, the United States Environmental Protection Agency, and the Electric Reliability Council of Texas (ERCOT) to help with long-term forecasting in estimating pollution reduction.

Energy Storage Equipment or Facilities—S.B. 943

by Senator Carona—House Sponsor: Representative Anchia

Energy storage is a developing technology that can provide increased reliability through the provision of ancillary services. Energy storage has unique characteristics and capabilities that can be considered generation, load, transmission, or a hybrid of all these energy methods. However, it is unclear whether or how energy storage is regulated as its unique characteristics and capabilities could be considered generation, load, transmission, or a hybrid. Current Texas law does not address the use of energy storage and there is no definition of this new technology in the Utilities Code. This bill:

Applies to electric energy storage equipment or facilities that are intended to provide energy or ancillary services at wholesale, including electric energy storage equipment or facilities listed on a power generation company's registration with PUC or, for an exempt wholesale generator, on the generator's registration with FERC.

Provides that electric energy storage equipment or facilities that are intended to be used to sell energy or ancillary services at wholesale are generation assets.

Provides that the owner or operator of electric energy storage equipment or facilities that are generation assets is a power generation company and is required to register under Section 39.351(a) (relating to registration of power generation companies).

Entitles the owner or operator of the equipment or facilities 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 provisions of this title and PUC rules applicable to a power generation company or an exempt wholesale generator.

Prohibits provisions of this bill from being construed to determine the regulatory treatment of electricity acquired to charge electric energy storage equipment or facilities and used solely for the purpose of later sale as energy or ancillary services.

Regulation of Distributed Generation of Electricity—S.B. 981

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

Distributed generation is electricity produced on-site and connected to the utility distribution system. Recent technological advances make distributed generation more affordable and desirable but that statewide policies do not exist for classification of distributed generation. However, statute is unclear or does not address provisions for small scale distributed generators. Current statute does not address whether distributed generators are required to register with PUC even though they typically produce less than a megawatt of energy. This bill:

Redefines "distributed renewable generation owner" to mean an owner of distributed renewable generation; 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; or 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.

Provides 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 and neither is required to register with or be certified by PUC if at the time distributed renewable generation is installed, the estimated annual amount of electricity to be produced by the distributed renewable generation is less than or equal to the retail electric customer's estimated annual electricity consumption.

Utility Bill Payment Assistance for Severely Burned Veterans—S.B. 1002

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

San Antonio is home to an unusually high number of burned veterans who have significantly decreased abilities to regulate their bodies' core temperatures because of severe burns received in combat. In an effort to assist them with the high utility bills that result in the summer months from being forced to maintain a 62-68 degree temperature in their homes, this legislation proposes to add burned military veterans to the group of utility customers who are currently eligible for a bill payment assistance program. This bill:

Establishes provisions relating to the designation of program costs in certain municipalities for providing bill payment assistance to certain military veterans as a necessary operating expense that is a first lien against revenue of certain

electric and gas utilities' revenue securing certain public securities or obligations in order to add a new category of utility customers to a bill payment assistance program established by recent legislation.

Energy Efficiency Goals and Programs—S.B. 1125

by Senator Carona—House Sponsor: Representative Anchia

Energy efficiency goals are measured by annual growth and demand but this metric does not account for increased consumption or demand for energy. Electric utilities administer many energy efficiency programs, but are currently prohibited from interacting with customers to provide education for those programs. The load resource program, a program that allows demand or load to participate in the energy market, is currently limited to industrial classes, prohibiting participation by residential and commercial class customers. This bill:

Provides that it is the goal of the legislature that, among other things:

- all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to reduce energy consumption, summer and winter peak demand, or energy costs;
- each electric utility annually will provide through market-based standard offer programs or through targeted market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire cost-effective energy efficiency, subject to cost ceilings established by PUC, for the utility's residential and commercial customers equivalent to:
 - not less than 30 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31 of each year, beginning with the 2013 calendar year; and the amount of energy efficiency to be acquired for the utility's residential and commercial customers for the most recent preceding year; and
 - for an electric utility whose amount of energy efficiency to be acquired under this subsection is equivalent to at least four-tenths of one percent of the electric utility's summer weather-adjusted peak demand for residential and commercial customers in the previous calendar year, not less than four-tenths of one percent of the utility's summer weather-adjusted peak demand for residential and commercial customers by December 31 of each subsequent year; and the amount of energy efficiency to be acquired for the utility's residential and commercial customers for the most recent preceding year; and
- each electric utility in the ERCOT region shall use its best efforts to encourage and facilitate the involvement of the region's retail electric providers in the delivery of efficiency programs and demand response programs under this section, including programs for demand-side renewable energy systems that use distributed renewable generation; or reduce the need for energy consumption by using a renewable energy technology, a geothermal heat pump, a solar water heater, or another natural mechanism of the environment.

Requires PUC to provide oversight and adopt rules and procedures to ensure that the utilities can achieve the goals of this bill, including:

- ensuring that the costs associated with energy efficiency programs and any shareholder bonus awarded are borne by the customer classes that receive the services under the programs;
- ensuring that programs are evaluated, measured, and verified using a framework established by PUC that promotes effective program design and consistent and streamlined reporting; and
- ensuring that an independent organization allows load participation in all energy markets for residential, commercial, and industrial customer classes, either directly or through aggregators of retail customers, to the extent that load participation by each of those customer classes complies with reasonable requirements adopted by the organization relating to the reliability and adequacy of the regional electric network and in a manner that will increase market efficiency, competition, and customer benefits.

Authorizes utilities to choose to implement any market-transformation program option approved by PUC after its evaluation, including the installation of variable speed air conditioning systems, motors, and drives; commissioning services for commercial and institutional buildings that result in operational and maintenance practices that reduce the buildings' energy consumption; data center efficiency programs; and energy use programs with measurable and verifiable results that reduce energy consumption through behavioral changes that lead to efficient use patterns and practices.

Authorizes a utility, for an electric utility operating in an area not open to competition, to achieve the goal of this bill by providing rebate or incentive funds directly to customers to promote or facilitate the success of programs implemented; or developing, subject to commission approval, new programs other than standard offer programs and market transformation programs, to the extent that the new programs satisfy the same cost-effectiveness requirements as standard offer programs and market transformation programs.

Authorizes a utility, for an electric utility operating in an area open to competition, on demonstration to PUC, after a contested case hearing, that the requirements under this bill cannot be met in a rural area through retail electric providers or competitive energy service providers, to achieve the goal of this bill by providing rebate or incentive funds directly to customers in the rural area to promote or facilitate the success of programs implemented.

Authorizes an electric utility to use energy audit programs if the programs do not constitute more than three percent of total program costs; and the addition of the programs does not cause a utility's portfolio of programs to no longer be cost-effective.

Authorizes PUC, to help a residential or nongovernmental nonprofit customer make informed decisions regarding energy efficiency, to consider program designs that ensure, to the extent practicable, the customer is provided with information using standardized forms and terms that allow the customer to compare offers for varying degrees of energy efficiency attainable using a measure the customer is considering by cost, estimated energy savings, and payback periods.

Authorizes an electric utility to submit electronically an energy efficiency plan and report in a searchable form prescribed by PUC on or before April 1 of each year and requires that the plan and report include certain information.

Requires PUC by rule to adopt a form that will permit the public to easily compare information submitted by different electric utilities.

Energy Efficiency Goals of Non-ERCOT Utilities—S.B. 1150

by Senator Seliger—House Sponsor: Representative Frullo

S.B. 1150 codifies current PUC rulemaking relating to the state's utility-administered energy efficiency program that was instituted as part of S.B. 7, 76th Legislature, Regular Session, 1999, that restructured the Texas electric market. Xcel Energy's Southwestern Public Service Company was not restructured through the implementation of S.B. 7 and was exempted from the energy efficiency goals set forth in S.B. 7. PUC amended its energy efficiency rule to apply the same goals and cost recovery method to Xcel Energy that apply to all other electric utilities in the state. This bill:

Requires that, until the date on which a non-ERCOT electric utility is authorized by PUC to implement customer choice, the rates of the utility be regulated under traditional cost of service regulation and that the utility be subject to all applicable regulatory authority prescribed by Subtitle B (Electric Utilities) and Subtitle A (Provisions Applicable to All Utilities), Utilities Code, including Chapters 14 (Jurisdiction and Powers of Commission and Other Regulatory Authorities), 32 (Jurisdiction and Powers of Commission and Other Regulatory Authorities), 33 (Jurisdiction and Powers of Municipality), 36 (Rates), and 37 (Certificates of Convenience and Necessity).

Requires that, until the date on which a non-ERCOT electric utility implements customer choice, the provisions of Chapter 39 (Restructuring of Electric Utility Industry), other than this Subchapter I (Provisions for Certain Non-ERCOT Utilities), Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), Utilities Code, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, do not apply to that utility.

Combined Heating and Power Facility, City of Denton—S.B. 1230

by Senator Estes—House Sponsor: Representative Crownover

The City of Denton has applied for a permit to construct and operate a combined heat and power (CHP) plant, also known as a cogeneration facility, to be located in Denton, Texas. Construction of the plant is slated to begin in July of 2011. The facility will be powered by natural gas. This bill:

Applies only to a home-rule municipality that has a population of more than 100,000; 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.

Authorizes a municipality to buy, own, construct, maintain, and operate a CHP system or plant and related infrastructure.

Authorizes the governing body of the municipality to designate a CHP economic development district that includes territory that is within three miles of the combined heating and power plant; is wholly located within the corporate boundaries of the municipality; and does not have an interstate or federal highway located within the boundaries of the district on the date the territory is designated.

Authorizes the municipality to sell an energy commodity from the system or plant, including electricity, chilled water, steam, or gas and to sell gas only to industrial customers located in the combined heating and power economic development district.

Requires the municipality to assess fees against a municipal entity selling gas to industrial customers in the combined heating and power economic district that are substantially the same as the fees assessed against a gas utility that is not owned by the municipality for occupation of a municipal right-of-way.

Local Government Contracts to Purchase Electricity—S.B. 1393

by Senator Seliger—House Sponsor: Representative Keffer

The Public Property Finance Act currently allows governmental entities to finance purchases of personal property, but not real property. Uncertainty as to whether electricity meets the definition of personal property has caused the attorney general to reject contracts by political subdivisions wishing to issue debt to pay for their long-term electricity needs. As a result, political subdivisions seeking such contracts may be required to seek a bond validation suit, which can be prohibitively expensive. To clarify that cities may purchase electricity using low-cost financing, the definition of personal property provided in the Local Government Code must be expanded to include electricity. This bill:

Amends the definition of personal property in Section 271.003(8), Local Government Code, to include electricity purchased by a governmental body for its own needs.

Low-Income Weatherization Programs—S.B. 1434

by Senator Carona—House Sponsor: Representative Geren

As the overall budget of energy efficiency programs (EE program) run by electric utilities continues to increase, the percentage of money spent on targeted low-income EE programs continues to decrease. The funding mechanism is outdated and obsolete. The Texas Department of Housing and Community Affairs is required to issue reports on demand savings, but is not required to participate in efficiency cost recovery factor proceedings. This bill:

Requires that the level of funding for low-income energy efficiency programs be provided from money approved by PUC for the transmission and distribution utility's energy efficiency programs.

Requires 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 transmission and distribution utility's energy efficiency budget for the year.

Requires a targeted low-income energy efficiency program to comply with the same audit requirements that apply to federal weatherization subrecipients.

Requires PUC, in an energy efficiency cost recovery factor proceeding related to expenditures under this subsection, to make findings of fact regarding whether the utility meets requirements imposed by this bill.

Requires the state agency that administers the federal weatherization assistance program to participate in energy efficiency cost recovery factor proceedings related to expenditures under this subsection to ensure that targeted low-income weatherization programs are consistent with federal weatherization programs and adequately funded.

Changes in Participation in Public Utility Agencies—S.B. 1596

by Senator Wentworth—House Sponsor: Representative Issac

Chapter 572 (Public Utility Agencies for Provision of Water or Sewer Service), Local Government Code, authorizes two or more public entities to create a "public utility agency" to plan, finance, construct, own, operate, or maintain water supply and/or wastewater treatment facilities. Chapter 572 allows a public entity to be added to or deleted from an existing public utility agency only through "re-creation" of the agency, with all of the public entities providing notice of the "re-creation," allowing for submission of a referendum petition, and then adopting concurrent ordinances or resolutions. The term "re-creation" can cause confusion regarding the rights, obligations, and ongoing nature of a public utility agency. This bill:

Authorizes the public entities that participate in a public utility agency to by concurrent ordinances add a public entity to, or delete a public entity from, participation in the public utility agency.

Sets forth requirements relating to the content of a concurrent ordinance.

Periodic Rate Adjustments by Electric Utilities—S.B. 1693

by Senator Carona—House Sponsor: Representative Thompson

Funding a modern and reliable electric grid depends on a regulatory structure that both allows utilities to keep pace with evolving demands and technology, and provides for timely cost recovery. The process to recover investments, revenues, and expenditures associated with electric grid infrastructure can be drawn out and administratively burdensome. Current law does not address periodic rate adjustments for distribution costs, but there is statutory guidance for energy efficiency, fuel costs, and timely recovery of transmission costs outside of ERCOT. This bill:

Authorizes PUC or a regulatory authority, on the petition of an electric utility, to approve a tariff or rate schedule in which a nonfuel rate may be periodically adjusted upward or downward, based on changes in the parts of the utility's invested capital, as described by Section 36.053 (Components of Invested Capital), Utilities Code, that are categorized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks in accordance with PUC rules adopted after consideration of the uniform system of accounts prescribed by FERC.

Requires that a periodic rate adjustment:

- be approved or denied in accordance with an expedited procedure that provides for appropriate updates of information, allows for participation by the office and affected parties, and extends for not less than 60 days;
- take into account changes in the number of an electric utility's customers and the effects, on a weather-normalized basis, that energy consumption and energy demand have on the amount of revenue recovered through the electric utility's base rates;
- be consistent with the manner in which costs for invested capital were allocated to each rate class, as approved by PUC, in an electric utility's most recent base rate statement of intent proceeding with changes to residential and commercial class rates reflected in volumetric charges to the extent that residential and commercial class rates are collected in that manner based on the electric utility's most recent base rate statement of intent proceeding;
- not diminish the ability of PUC or a regulatory authority, on its own motion or on complaint by an affected person, after reasonable notice and hearing, to change the existing rates of an electric utility for a service after finding that the rates are unreasonable or in violation of law;
- be applied by an electric utility on a system-wide basis; and
- be supported by the sworn statement of an appropriate employee of the electric utility that affirms that the filing is in compliance with the provisions of the tariff or rate schedule, and the filing is true and correct to the best of the employee's knowledge, information, and belief.

Requires an electric utility in the ERCOT power region, or an unbundled electric utility outside the ERCOT power region in whose service area retail competition is available, that requests a periodic rate adjustment, to, to the extent possible, implement simultaneously all nonfuel rates to be adjusted in a 12-month period that are charged by the utility to retail electric providers; and provide notice to retail electric providers of the approved rates not later than the 45th day before the date the rates take effect.

Prohibits a periodic rate adjustment approved under this bill from being used to adjust the portion of a nonfuel rate relating to the generation of electricity.

Authorizes an electric utility to adjust the utility's rates not more than once per year and not more than four times between comprehensive base rate proceedings.

Prohibits a periodic rate adjustment from including indirect corporate costs or capitalized operations and maintenance expenses.

Provides that nothing in this bill is intended to:

- conflict with a provision contained in a financing order issued under Subchapter I (Provisions for Certain Non-ERCOT Utilities) of Chapter 36 (Rates), or Subchapter G (Securitization) or J (Transition to Competition in Certain Non-ERCOT Areas), Chapter 39 (Restructuring of Electric Utility Industry), Utilities Code;
- affect the limitation on PUC's jurisdiction under Section 32.002 (Limitation on Commission Jurisdiction), Utilities Code;
- include in a periodic rate adjustment authorized by this section costs adjusted under a transmission cost-of-

service adjustment approved under Section 35.004(d) (relating to price of wholesale transmission services), Utilities Code;

- limit the jurisdiction of a municipality over the rates, operations, and services of an electric utility as provided by Section 33.001 (Municipal Jurisdiction), Utilities Code;
- limit the ability of a municipality to obtain a reimbursement under Section 33.023 (Ratemaking Proceedings), Utilities Code, for the reasonable cost of services of a person engaged in an activity described by that section; or
- prevent PUC from reviewing the investment costs included in a periodic rate adjustment or in the following comprehensive base rate proceeding to determine whether the costs were prudent, reasonable, and necessary; or refunding to customers any amount improperly recovered through the periodic rates adjustments, with appropriate carrying costs.

Requires PUC to adopt rules necessary to implement provisions of this bill.

Requires PUC to undertake a study and conduct a report analyzing any periodic rate adjustment established and requires that the study be available for the legislature's review by January 31, 2017, so that the legislature may properly be informed as to the need to continue PUC's authority to allow periodic rate adjustments.

Activities and Programs of the El Paso Electric Company—S.B. 1910

by Senators Rodriguez and Uresti—House Sponsor: Representative Margo et al.

The El Paso Electric Company (EPEC) is an investor-owned electric utility operating in portions of Texas that are outside of ERCOT but that are within the Western Electric Coordinating Council (WECC). EPEC and the City of El Paso have jointly agreed to support the creation of a separate subchapter to Chapter 39 (Restructuring of Electric Utility Industry), Utilities Code, that contains provisions that apply only to the EPEC service area in Texas. This bill:

Adds Subchapter L (Transition to Competition and Other Provisions for Certain Areas Outside of ERCOT), Chapter 39, Utilities Code.

Provides that Subchapter L applies only to an investor-owned electric utility that is operating solely outside of ERCOT in areas of this state that were included in WECC on January 1, 2011; that was not affiliated with ERCOT on January 1, 2011; and to which Subchapters I (Provisions for Certain Non-ERCOT Utilities), J (Transitions to Competition in Certain Non-ERCOT Areas), and K (Transition to Competition for Certain Areas Outside of ERCOT), Chapter 39, Utilities Code, do not apply.

Provides that until the date on which an electric utility subject to Subchapter L is authorized by PUC to implement retail customer choice, the rates of the utility are subject to regulation under Chapter 36 (Rates).

Provides that, until the date on which an electric utility subject to Subchapter L implements customer choice, the provisions of Chapter 39, other than Subchapter L and Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), do not apply to that utility.

Requires that the events prescribed by this bill be followed to introduce retail competition in the service area of an electric utility subject to Subchapter L.

Sets forth provisions that prescribe the activities of the first, second, third, fourth, and fifth stages for the transition to competition in the service area of an electric utility subject to Subchapter L.

Requires PUC to ensure that the listed items in each stage are completed before the next stage is initiated.

Authorizes a distributed renewable generation owner in the service area of an electric utility subject to Subchapter L to request interconnection by filing an application for interconnection with the utility.

Requires an electric utility that approves an application of a distributed renewable generation owner to install, maintain, and retain ownership of the meter and metering equipment.

Authorizes an electric utility that approves an application of a distributed renewable generation owner to install load research metering equipment on the premises of the owner at no expense to the owner.

Requires the owner, at the request of an electric utility that approves an application of a distributed renewable generation owner, to provide and install a meter socket, a metering cabinet, or both a socket and cabinet at a location designated by the utility on the premises of the owner; and provide, at no expense to the utility, a suitable location for the utility to install meters and equipment associated with billing and load research.

Requires an electric utility that approves an application of a distributed renewable generation owner to provide to the owner metering options and an option to interconnect with the utility through a single meter that runs forward and backward if:

- the owner intends to interconnect the distributed renewable generation at an apartment house occupied by low-income elderly tenants that qualifies for master metering and the distributed renewable generation is reasonably expected to generate not less than 50 percent of the apartment house's annual electricity use; or has a qualifying facility with a design capacity of not more than 50 kilowatts; and
- the distributed renewable generation or qualifying facility that is the subject of the application is rated to produce an amount of electricity that is less than or equal to the owner's estimated annual kilowatt hour consumption for a new apartment house or qualifying facility; or the amount of electricity the owner consumed in the year before installation of the distributed renewable generation or qualifying facility.

Requires that, for a distributed renewable generation owner that chooses interconnection through a single meter, the amount of electricity the owner generates through distributed renewable generation or a qualifying facility for a given billing period offsets the owner's consumption for that billing period and any electricity the owner generates through distributed renewable generation or a qualifying facility that exceeds the owner's consumption for a given billing period be credited to the owner.

Requires an electric utility that purchases surplus electricity to purchase the electricity from the distributed renewable generation owner at the cost of the utility as determined by PUC rule.

Authorizes a credit balance of not more than \$50 on the owner's monthly bill to be carried forward onto the owner's next monthly bill.

Requires the utility to refund to the owner a credit balance that is not carried forward or the portion of a credit balance that exceeds \$50 if the credit balance is carried forward.

Requires PUC, in a base rate proceeding or fuel cost recovery proceeding, to ensure that any additional cost associated with the metering and payment options is allocated only to customer classes that include distributed renewable generation owners who have chosen those metering options.

Authorizes an electric utility subject to Subchapter L to market an energy efficiency or renewable energy program directly to a retail electric customer in its service territory and provide rebate or incentive funds directly to a customer to promote or facilitate the success of energy efficiency programs.

Disposition of Remains of Members of the United States Armed Forces—H.B. 74

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

State law relating to the disposition of human remains does not currently provide for the accommodation of the expressed, written wishes of members of the United States armed forces through the execution of the federally prescribed DD Form 93, or "Record of Emergency Data." This bill:

Provides that if a DD Form 93 was in effect at the time of death for a decedent who died in a certain manner, the DD Form 93 controls over any other written instrument or with respect to designating a person to control the disposition of the decedent's remains. Provides that notwithstanding Sections 711.002(b) (relating to the form of the written instrument required for priority over remains) and (c) (relating to further requirements of the written instrument required for priority over remains), Health and Safety Code, the form is legally sufficient if it is properly completed, signed by the decedent, and witnessed in the manner required by the form.

Analysis of Facility Needs by the Adjutant General—H.B. 282

by Representatives Flynn and Guillen—Senate Sponsor: Senator Van de Putte

Currently, many state armories are either leased from local governments or owned by the State of Texas. The current trend is to close state armories as the United States Department of Defense is moving to larger, consolidated armories. These federal facilities cannot house the Texas State Guard. This bill:

Authorizes the adjutant general to hold, manage, or maintain the property after the analysis under Section 431.0308 (Analysis of Facility Space Before Real Property Grant or Conveyance), Government Code, if applicable, lease or sell the property and pledge all or part of the rents, issues, and profits of the property.

Authorizes the adjutant general, after the analysis, if applicable, to lease property to any person under the terms the adjutant general determines.

Authorizes the adjutant general, when property that the adjutant general owns or that is transferred to the state is fully paid for and free of liens, and all obligations incurred in connection with the acquisition and construction of the property have been fully paid, to, after conducting the analysis, if applicable, properly dispose of the property if the property is designated by the adjutant general as surplus and the disposal is in the best interests of the adjutant general and the state military forces and its components or successors.

Requires 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.

Powers of a Defense Base Development Authority—H.B. 447

by Representative Menendez—Senate Sponsor: Senator Uresti

The Defense Base Redevelopment Act (Act) was passed to assist communities like San Antonio that were facing the closure or realignment of military facilities as a result of the Base Realignment and Closure (BRAC) process. Port San Antonio was created under this Act to help redevelop the former Kelly Air Force Base, and it is one of the most successful redevelopment projects of a former military base in the country. This bill:

Authorizes a base development authority (authority) to exercise power necessary or convenient to carry out a purpose of Chapter 379B (Defense Base Development Authorities), Local Government Code, including the power to charge for the use, lease, or sale of an open space for a facility.

Authorizes an authority to charge for a service provided, including professional consultation services provided in relation to internal trade, planning, land use, or construction; real estate development services, including an employee licensed under Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code, acting as a broker; support or participation in the acquisition of venture capital to finance the authority's redevelopment project, both inside and outside the authority; participation in or assistance on a joint venture composed of both public and private entities; promotion of an activity that creates employment opportunities; and any other service provided in relation to a project undertaken by the authority alone or with others, to fulfill an authority purpose or objective.

Authorizes an authority to implement a transportation project on the base property or outside of the base property to provide access to the base property.

Authorizes an authority to enter into an agreement with any person, including another governmental entity, to plan, finance, construct, or maintain a project described in the bill

Authorizes an authority to construct a building, loading dock, or other facility as part of a transportation project described in the bill.

Relief Available to Military Members in Certain Real Property Documentation—H.B. 1127

by Representative Gutierrez—Senate Sponsor: Senator Van de Putte

The federal Servicemember's Civil Relief Act (SCRA) provides a wide range of protections for servicemembers. It is intended to postpone or suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members of those deployed. This bill:

Requires that in a suit described by Section 24.0051(c) (relating to a suit to recover possession of the premises), Property Code, the citation required by Rule 739 (Citation), Texas Rules of Civil Procedure, include a notice with certain language regarding a tenant serving on active military duty to the defendant on the first page of the citation in English and Spanish and in conspicuous bold print.

Requires that a notice served on a debtor contain, in addition to any other statements required, certain language relating to military members asserting and protecting their rights.

Requires that the notice inform the owner that the owner has certain rights, including that the owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the owner is serving on active military duty.

Employment Protection for Members of the State Military Forces—H.B. 1178

by Representative Flynn—Senate Sponsor: Senator Birdwell

Legislation was passed in 2003 and 2007 to provide protections mirroring the federal Uniformed Services Employment and Reemployment Rights Act of 1994 for members of the Texas military forces who are called to state active duty in response to natural disasters and other emergencies. Current law does not provide any avenue for processing service members' complaints of violations of Chapter 431 (State Militia), Government Code, nor remedies when it is determined that a public or private employer has failed to comply with the law. This bill:

Prohibits an employer from terminating the employment of an employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority.

Provides that a violation of certain provisions relating to the reemployment of a person called to duty is an unlawful employment practice and authorizes a person injured by such a violation to file a complaint with the Texas Workforce Commission (TWC) civil rights division.

Sets forth provisions for administrative review and judicial enforcement, including the filing of complaints; alternative dispute resolution; investigation by TWC; lack of reasonable cause and dismissal of a complaint; determination of reasonable cause; resolution by informal methods; notice of dismissal or unresolved complaint; temporary injunctive relief; civil action by TWC; provisions relating to civil action by a complainant; injunction and equitable relief; compensatory and punitive damages; attorney's fees and costs; compelled compliance; and trial de novo.

Requires 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.

Requires that the license plates include the words "Woman Veteran" in red.

Exemption From the Payment of a Toll for Military Vehicles—H.B. 1274

by Representatives Pena and Guillen—Senate Sponsor: Senator Wentworth

Currently, marked and recognizable military vehicles are allowed free use of a toll project, but unmarked military vehicles, such as those used by the adjutant general's department while conducting or training for emergency operation, are subject to tolls because it is unclear that they qualify for the exemption. This bill:

Establishes that "military vehicle" includes an unmarked military vehicle operated by military personnel conducting an emergency preparedness, response, or recovery operation or participating in a training exercise for an emergency preparedness, response, or recovery operation.

Temporary Orders Affecting Parent-Child Relationship During Deployment—H.B. 1404

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

Section 153.702 (Temporary Orders), Family Code, provides that if a conservator of a child is ordered to military deployment, military mobilization, or temporary military duty, either conservator may file for a temporary order regarding the possession of or access to a child or child support. However, Chapter 156 (Modification), Family Code, only allows for a modification to an order for possession of or access to a child or for child support if there has been a material and substantial change in circumstances. This bill:

Clarifies that either conservator may file for a change in conservatorship if a conservator is ordered to military deployment, military mobilization, or temporary military duty without having to show a material and substantial change in circumstance.

Repeals a provision providing that a temporary order may be sufficient to justify a temporary order modifying a party's child support obligations.

Specially Marked Driver's Licenses for Veterans—H.B. 1514

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

Veterans of the armed forces often receive certain benefits from local businesses and organizations for their service and sacrifice. Veterans often must carry their DD-214 discharge information with them in order to receive those benefits. This bill:

Requires the Department of Public Safety of the State of Texas (DPS) to include the designation "VETERAN" on a driver's license issued to a veteran in an available space either on the face of the driver's license or on the reverse side of the driver's license if the veteran requests the designation and the veteran provides proof of the veteran's military service and honorable discharge.

Requires the application to provide space for the applicant to voluntarily list any military service that may qualify the applicant to receive a license with a veteran's designation and to include proof required by DPS to determine the applicant's eligibility to receive that designation.

Land Use Regulations in an Area Near Military Facilities—H.B. 1665

by Representative Susan King—Senate Sponsor: Senator Fraser

H.B. 2919, 81st Regular Session, 2009, provided that a defense community that proposes to adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a defense base seek comments and analysis from the base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The intent of the bill was notification and to have a process in place so that a defense base was aware of potential encroachment that could affect its mission or stability. This bill:

Requires a defense community that proposes to 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 the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations.

Requires the defense community reviewing the application, on receipt of an application for a permit for a proposed structure in an area located within eight miles of the boundary line of a defense base, to notify the defense base authorities concerning the compatibility of the proposed structure with base operations.

Repeals Sections 397.005(c) (relating to considering and analyzing comments and analysis received from defense base authorities) and 397.006(c) (relating to considering and analyzing comments and analysis received from defense base authorities), Local Government Code.

Interagency Memorandum of Understanding Regarding PARIS—H.B. 1784

by Representative Farias—Senate Sponsor: Senator Van de Putte

Part of the Legislative Budget Board's (LBB) recommendations in the Government Effectiveness and Efficiency Report relates to the use of federal data to help veterans access federal benefits and save state funds through the Public Assistance Reporting Information System (PARIS). The current state budget contains riders that direct the transfer of \$50,000 each fiscal year from the fund for Veterans Assistance and \$50,000 from the Health and Human Services Commission (HHSC) and the Texas Veterans Commission (TVC) in order to support two full-time equivalent workers (FTE) to assist veterans who are currently on Medicaid to transfer and apply for United States Department of Veterans Affairs (VA) benefits. The underlying goal of PARIS is to save the state Medicaid money by moving veterans away from state Medicaid services to the more appropriate system of care for VA benefits. This bill:

Requires HHSC, TVC, the Texas Veterans' Land Board (VLB), and the Department of Aging and Disability Services (DADS) 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 PARIS and developing new strategies for state agencies to use PARIS data in ways that generate fiscal savings for the state and maximize the availability of and access to benefits for veterans.

Requires HHSC, TVC, and DADS to coordinate to assist veterans in maximizing the benefits available to each veteran by using PARIS.

Authorizes HHSC and TVC together to determine the geographic scope of the efforts to maximize benefits available to each veteran.

Requires TVC, VLB, and DADS collectively, not later than October 1, 2012, to submit to the governor and LBB a report describing the frequency and success with which state agencies have used PARIS, the costs to the state that were avoided as a result of state agencies' use of PARIS, and recommendations for future use of PARIS by state agencies.

Texas Code of Military Justice—H.B. 2417

by Representative Flynn—Senate Sponsor: Senator Rodriguez

Military law exists separately from civilian law. The Uniform Code of Military justice (UCMJ) was enacted by Congress in 1950 to establish a standard set of procedural and substantive criminal laws for all U.S. military services. The National Guard and Texas Military Forces do not fall under UMG unless on federal active duty. The Texas Code of Military Justice (TCMJ) is the state's law specific to military issues. UCMJ has been updated and TCMJ must be amended to align with those changes. This bill:

Provides that Chapter 432 (Texas Code of Military Justice), Government Code, applies to all members of the state military forces who are not in federal service under Title 10, United States Code.

Authorizes any commanding officer, under regulations as may be prescribed, to impose disciplinary punishments for minor offenses without the intervention of a court-martial. Provides that there is no right to trial by court-martial in lieu of nonjudicial punishment imposed. Authorizes only the governor, the adjutant general, or an officer of a general or flag rank in command to delegate the powers to a principal assistant who is a member of the state military forces.

Requires any accused person who is facing discipline to be afforded the opportunity to be represented by defense counsel having certain qualifications, if such a counsel is reasonably available. Requires that otherwise, the accused be afforded the opportunity to be represented by any available commissioned officer of the accused's choice. Authorizes the accused to also be represented by civilian counsel at no expense to the state. Provides that in all proceedings, the accused is allowed three duty days, or longer on written justification, to reply to the notification of intent to impose punishment.

Authorizes any commanding officer to impose on enlisted members in the officer's command a reprimand, a fine equal to an amount that is not more than seven days' pay, and a reduction to the next inferior pay grade.

Authorizes any commanding officer of the grade of O-4 or above to impose on enlisted members in the officer's command a reprimand; a fine equal to an amount that is not more than one month's pay; and a reduction to the lowest or any immediate pay grade, but provides that an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.

Authorizes the governor, the adjutant general, an officer exercising general court-martial convening authority, or an officer of a general or flag rank in command to impose on officers in the officer's command a reprimand and a fine equal to an amount that is not more than one month's pay and on enlisted member's in the officer's command, any punishment authorized by this bill.

Authorizes an officer who imposes punishment authorized in the bill or the officer's successor in command to at any time suspend, set aside, reduce, or remit any part or amount of the punishment and restore all rights, privileges, and

property affected. Prohibits the mitigated punishment from being for a greater amount than the punishment mitigated. Prohibits, when mitigating reduction in grade to a fine, the amount of the fine from being greater than the amount that could have been imposed initially under the bill by the officer who imposed the punishment.

Authorizes a person punished under the bill who considers the punishment unjust or disproportionate to the offense to, through the proper channel, appeal to the next superior authority not later than the 15th day after the date the punishment is either announced or sent to the accused, as the commanding officer determines. Requires that the appeal be promptly forwarded and decided, but the person punished is authorized in the meantime be required to undergo the punishment adjudged.

Provides that each force of the state military forces has court-martial jurisdiction over a member of the force who is subject to this bill. Provides that the Texas Army National Guard and the Texas Air National Guard have court-martial jurisdiction over all enlisted members subject to this bill.

Provides that, subject to Section 432.032 (Jurisdiction of Court-Martial in General), Government Code, a general court-martial has jurisdiction to try a person subject to this bill for any offense made punishable by the chapter and may, under limitations the governor prescribes, adjudge any of the following punishments: reprimand, forfeiture of pay and allowances, a fine of not more than \$10,000, reduction of any enlisted member to any lower rank, confinement for not more than five years, dismissal or bad conduct or dishonorable discharge, or any combination of those punishments.

Provides that a special court-martial has the same powers of punishment as a general court-martial, except that a special court-martial is prohibited from imposing more than a \$4,000 fine and confinement of not more than one year for a single offense.

Authorizes a summary court-martial to sentence a person to pay a fine of not more than \$1,000 and confinement for not more than 90 days for a single offense, to forfeit pay and allowances, and to reduction of a noncommissioned officer to any lower rank.

Authorizes any commander in the grade of O-5 or higher, in the state military forces not in federal service, to convene a special court-martial.

Authorizes any commander in the grade of O-4 or higher to, in the state military forces not in federal service, to convene on a summary court-martial.

Provides that any state commissioned officer in a duty status is eligible to serve on a court-martial.

Prohibits trial counsel or defense counsel detailed for a general court martial from being under the supervision or command of the counsel unless the accused and the prosecution expressly waive this restriction.

Provides that a person subject to Chapter 432, Government Code, who commits an offense under the Penal Code is considered to violate the chapter and is subject to punishment.

Family Violence or Other Criminal Conduct and Military Personnel—H.B. 2624

by Representative Sheffield—Senate Sponsors: Senators Van de Putte and Davis

There is a disconnect between military and civilian responses when a member of the armed services is arrested or prosecuted for domestic violence. When a person is arrested on a military installation, the federal government addresses the issue and when domestic violence occurs outside of a military base, it is a state offense. In some cases, the military does not know about domestic violence that occurs outside of a military base. This bill:

Provides that certain provisions apply only if the respondent, at the time of issuance of an original or modified protective order, is a member of the state military forces or is serving in the armed forces of the United States in an active-duty status. Requires the clerk of the court, in addition to complying with Section 85.042(a) (relating to requiring the clerk of the court issuing an original or modified protective order to send a copy of the order to the chief of police of the municipality in which the person protected by the order resides), Family Code, to also provide a copy of the protective order and the information described by that subsection to the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the respondent is assigned with the intent that the commanding officer will be notified, as applicable.

Requires the clerk of a court that vacates an original or modified protective order to notify each individual or entity who received a copy of the original or modified order from the clerk that the order is vacated.

Requires the applicant or the applicant's attorney to provide to the clerk of the court certain information, including the name and address of each law enforcement agency, child care facility, school, and other individual or entity to which the clerk is required to mail a copy of the order.

Requires a police officer who investigates a family violence incident or who responds to a disturbance call that may involve family violence to make a written report, including but not limited to certain identifying information relating to those involved in the incident.

Requires the peace officer, if a suspect is identified as being a member of the military, as described by this bill, to provide written notice of the incident or disturbance call so the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the suspect is assigned with the intent that the commanding officer will be notified, as applicable.

Provides that Article 42.0182 (Notice of Family Violence Offenses Provided by Clerk of Court), Code of Criminal Procedure, applies only to conviction or deferred adjudication granted on the basis of an offense that constitutes family violence or an offense under Title 5 (Offenses Against the Person), Penal Code, and if the defendant is a member of the state military forces or is serving in the armed forces of the United States in an active-duty status.

Requires the clerk of the court in which the conviction or deferred adjudication is entered, as soon as possible after the date on which the defendant is convicted or granted deferred adjudication on the basis of an offense, to provide written notice of the conviction or deferred adjudication to the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the defendant is assigned with the intent that the commanding officer will be notified, as applicable.

Requires that each presentence investigation 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 armed forces of the United States in an active-duty status. Requires that the investigation, if the defendant has served in an active-duty status, additionally determine whether the defendant was deployed to a combat zone and whether the defendant may suffer from post-traumatic stress disorder or a traumatic brain injury. Requires that, in addition, if available, a copy of the defendant's military discharge papers and military records be included in the investigation report provided to the judge under Article 42.12(a) (relating to requiring the judge to direct a supervision officer to report to the judge in writing on the circumstances of the offense with which the defendant is charged), Code of Criminal Procedure.

Deferral of Surcharge Payments for Certain Deployed Military Personnel—H.B. 2851

by Representative Mallory Caraway—Senate Sponsor: Senator Rodriguez

Currently, a member of the military on active duty and serving overseas is required by law to pay or set up an installment plan to pay Driver Responsibility Program (DRP) surcharges within 30 days. If neither is done, the person's driving privileges may be suspended. Paying the charges may be difficult for those overseas who may not have access to the surcharge notifications, which are mailed to the address on record with DPS, and may not be aware that a surcharge has been assessed. This bill:

Requires DPS by rule to establish a deferral program for surcharges assessed under Section 708.103 (Surcharge for Conviction of Driving While License Invalid or Without Financial Responsibility) or 708.104 (Surcharge for Conviction of Driving Without Valid License), Transportation Code, against a person who is a member of the United States armed forces on active duty deployed outside of the continental United States. Requires that the program toll the 36-month period while the person is deployed and defer assessment of surcharges against the person until after the date the person is no longer deployed for an offense committed before the person was deployed or while the person is deployed.

Privileged Parking for Recipients of the Silver Star Medal—H.B. 2928

by Representative Farias—Senate Sponsor: Senator Birdwell

The Silver Star Medal is the third-highest military decoration that can be awarded to a member of any branch of the United States Armed Forces for valor. Silver Star Medal recipients are not eligible for privileged parking in state-maintained parking lots and state-maintained parking meters. This bill:

Provides that a vehicle on which license plates described by certain sections of the Transportation Code, including Section 504.315(h) (relating to requiring the Texas Department of Motor Vehicles (TxDMV) to issue special license plates for recipients of the Silver Star Medal), are displayed is exempt 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 being operated by or for the transportation of certain persons, including the person who registered the vehicle under certain sections of the Transportation Code, including Section 504.315(h).

Texas Armed Services Scholarship Program—H.B. 3470

by Representative Diane Patrick et al.—Senate Sponsors: Senators Ogden and Davis

The Texas Armed Services Scholarship Program (program) was created to encourage students to participate in Reserve Officers' Training Corps (ROTC) at institutions of higher education in Texas by providing scholarships to qualified students. The program authorizes the governor, lieutenant governor, and each member of the Senate and House of Representatives to annually appoint applicants to receive up to \$15,000. In addition to meeting and sustaining academic requirements, a student must enter into an agreement that includes a four-year commitment as member of the Texas Army National Guard, Texas Air Force National Guard, or a commissioned officer in any branch of the armed services. This bill:

Requires that in order to receive an initial scholarship, a student meet certain standards, including being enrolled in a public or private institution of higher education.

Requires that the agreement a student must enter into with the Texas Higher Education Coordinating Board (THECB) in order to receive a scholarship require the student to meet certain standards, including graduate not later than six years after the date the student first enrolls in a public or private institution of higher education in this state; after graduation, enter into a four-year commitment to be a member of the Texas Army National Guard, Texas Air National

Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine or a contract to serve as a commissioned officer in any branch of the armed services of the United States; and meet the physical examination requirements and all other prescreening requirements of the Texas Army National guard, Texas Air National guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine or the branch of the armed services with which the student enters into a contract.

Requires that a scholarship awarded to a student 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 armed services of the United States exceeds the student's total cost of attendance for that academic year at the public or private institution of higher education in which the student is enrolled.

Specialty License Plates for Surviving Spouses of Disabled Veterans—H.B. 3580

by Representative Frullo—Senate Sponsor: Senator Duncan

Currently, the surviving spouse of a disabled veteran who has a disabled veteran specialty license plate is required to return the plate upon the veteran's passing. The disabled veteran specialty plate is the only classification of armed forces specialty license plate that requires the spouse to return the plate upon the veteran's death because there is a disability designation on the plate that allows the veteran to park in a handicap space. This bill:

Requires TxDMV to issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

Designation of the Veterans of the Korean War Memorial Highway—S.B. 58

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

According to the Veterans Administration, as of 2009, there are more than 2.1 million Korean War veterans in the United States. At least 124,820 Korean War veterans live in Texas. The Korean War is often referred to as the "forgotten war." This bill:

Provides that the following highways are collectively designated as the Veterans of the Korean War Memorial Highway:

- State Highway 359, between U.S. Highway 83 and State Highway 16;
- State Highway 16 between State Highway 359 and State Highway 285; and
- State Highway 285 between State Highway 16 and the eastern boundary of the city of Falfurrias.

Requires TxDOT, subject to Section 225.021(c) (relating to TxDOT's responsibility to design, construct, or erect a marker), Transportation Code, to design and construct memorial markers indicating the highway number, the designation as the Veterans of the Korean War Memorial Highway, and any other appropriate information, and to erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Notice Requirements for Nonjudicial Foreclosure of Military Residences—S.B. 101

By Senator Van de Putte et al.—House Sponsor: Representative Farias

SCRA is federal legislation designed to protect military service members on active duty, in the Guard, and in the Reserve from foreclosures of mortgages, deeds of trust, and similar security devices. SCRA requires that a court order be obtained before selling, foreclosing, or seizing real or personal property due to a breach of obligation by a service member during the period of military service or within nine months after the period ends and prohibits any

foreclosure on residents without a court order if the property owner is active-duty military. However, an incident occurred where a soldier had his home nonjudicially foreclosed upon while he was deployed in Iraq. While SCRA is designed to prevent such occurrences, this was an instance of the debt servicer not being informed of the debtor's active-duty military status. To enhance communications between debt servicers and debtors on active military duty, additional notice requirements are provided in statute. This bill:

Requires that any written notice from the servicer of a debt contain a statement that will prevent any future failure of the servicer of the debt to recognize that the debtor is on active duty in the military.

Awards for Certain State Military Force Members Inducted Into Federal Service—S.B. 356

by Senators Watson and Hinojosa—House Sponsor: Representative Kleinschmidt

While the federal government has established medals to honor soldiers who served in Operation Iraqi Freedom, Operation New Dawn, and Operation Enduring Freedom, Texas has not. This bill:

Authorizes the adjutant general to adopt rules and regulations relating to the issuance of certain medals, including the Texas Iraqi Campaign Medal, which is required to be awarded to a person who was inducted into federal service from the Texas National Guard, without regard to the place that the person was deployed while serving on active federal military duty after a certain time, and the Texas Afghanistan Campaign Medal, which is required 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, without regard to the place that the person was deployed while serving on active military duty.

Use of Fraudulent or Fictitious Military Records—S.B. 431

by Senator Jackson—House Sponsor: Representative Wayne Smith

Currently, there is no state law that prevents people from taking advantage of benefits intended for those who have served in the military. This bill:

Provides that a person commits an offense if the person:

- uses or claims 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; and
- uses or claims to hold that military record in a written or oral advertisement or other promotion as a business or with the intent to obtain priority in receiving certain services or recourses; qualify for veteran's employment preference; 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 this state; or gain a position in state government with authority over another person, regardless of whether the actor receives compensation for the position.

Provides that an offense is a Class C misdemeanor.

Authorizes the actor, if conduct that constitutes an offense under this legislation also constitutes an offense under any other law, to be prosecuted under this legislation or the other law.

Tuition and Fee Exemptions at Public Institutions of Higher Education—S.B. 639

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

In 2009, the legislature passed S.B. 93, which included provisions that allow veterans and military members deployed into combat to assign their unused Hazlewood benefits to their children and spouse. Since passage and implementation, THECB has requested that several provisions be clarified. This bill:

Requires the governing board of each institution of higher education to exempt certain persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student service fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption currently resides in this state and entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B (Tuition Rates), Chapter 54 (Tuition And Fees), Education Code, at the time the person entered the service.

Requires that a person who before the 2011-2012 academic year received an exemption provided by Section 54.203(a) (relating to requiring the governing board of each institution of higher education to exempt certain persons from certain payments), Education Code, continue to be eligible for the exemption provided by that subsection as that provision existed on January 1, 2011, subject to the other provisions of this section other than the requirement of Section 54.203(a) Education Code, to currently reside in this state.

Requires THECB by rule to prescribe procedures to allow, following the death of a person who becomes eligible for an exemption provided by Section 54.203(a) Education Code, 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 for an exemption.

Provides that for the purposes of the bill, a person is the child of another person if the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and the person the person is the stepchild or the biological or adopted child of the other person or the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

Requires THECB, if sufficient money is not available to cover the full costs of the institutions of higher education of the exemptions provided, to prorate the available funding to each institution for purposes of the bill in proportion to the total amount the institution would otherwise be entitled to receive for purposes of the bill. Provides that an institution is required to grant an exemption from the payment of tuition only to the extent money is available for that purpose.

Certain State Attorneys Called into Active Duty Military Service—S.B. 910

by Senator Lucio—House Sponsor: Representative Lozano

Current law does not provide a clear process for delegating the responsibilities of a district or county attorney who is called to active military duty. This bill:

Defines "active duty state attorney."

Requires a court to excuse an active duty state attorney from appearance or attendance during the term of the court, provided that that attorney has delegated his or her responsibilities to that attorney's first assistant or to another state attorney in the same jurisdiction or in an overlapping jurisdiction and notified 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.

Provides that an active duty state attorney is not considered absent from office and has not vacated his or her office.

High School Diplomas for Certain Military Veterans—S.B. 966

by Senator Uresti et al.—House Sponsor: Representative Pickett

Currently, Section 28.0251 (High School Diploma for Certain Veterans), Education Code, allows for the awarding of high school diplomas to veterans if they were honorably discharged, were scheduled to graduate from high school after 1940 and before 1975, and left high school to serve in the armed forces during World War II, the Korean War, or the Vietnam War. This bill:

Authorizes a school district, notwithstanding any other provision in the Education Code, to issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States and meets certain requirements, including 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 certain wars; including the Persian Gulf War, the Iraq War, or the war in Afghanistan or any other war formally declared 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 War Powers Resolution of 1973 (50 USC Section 1541 et seq.).

Exception for Military Spouses to Residency Requirements for Certain Filings—S.B. 1159

by Senator Wentworth—House Sponsor: Representative Jim Jackson

Under current law, Section 6.303 (Absence on Public Service), Family Code, provides that time spent by a Texas domiciliary outside this state or outside the domiciliary's county of residence while in the service of the armed forces or other service of the United States or Texas is considered residence in this state and in that county for purposes of filing for divorce. Section 6.304 (Armed Forces Personnel Not Previously Residents), provides that a military person who was not previously a Texas resident but who has been stationed at a Texas military installation for a certain period of time is considered to be a Texas domiciliary and a resident for the purpose of filing suit for divorce. However, there are no similar provisions for the spouse accompanying such person. This bill:

Extends the provisions of Section 6.303 and Section 6.304 to cover the spouse accompanying such person during his or her military service.

Differential Pay and Benefits for Certain Emergency Services District Employees—S.B. 1477

by Senator Hegar—House Sponsor: Representative Kleinschmidt

Under current law, most state and local government employees are entitled to differential pay (salary provided to equalize differing wage rates) when performing active duty training or service with the state or federal military forces. Employees of emergency services districts are eligible for differential pay, but the term is limited to 15 days. This creates a problem for emergency services district employees who are assigned to active military duty, as they must sacrifice needed wages and benefits in order to serve. This bill:

Authorizes a board of emergency services commissioners (board) to provide differential pay 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 if the board adopts a policy providing for differential pay for all similarly situated employees and the employee's military pay is less than the employee's gross pay from the district.

Prohibits the combination of differential pay and military pay from exceeding the employee's actual gross pay from the district.

Provides that for the purposes of this legislation, military pay does not include money the employee receives for service in a combat zone, as hardship pay, or for being separated from the employee's family.

Provides that the differential pay provided begins when the benefits allowed under Section 431.005 (Leave of Absence for Public Officers and Employees), Government Code, are exhausted and continues until the employee's active military duty terminates.

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. Provides that the extension period begins when the benefits allowed under Section 431.005, Government Code, are exhausted and continues until the employee's active military duty terminates.

Directors of a Defense Base Management Authority and an Effectiveness Study—S.B. 1493

by Senator Uresti—House Sponsor: Representative Farias

In 2001, the legislature enacted a law that allowed cities losing military bases to create authorities in their extraterritorial jurisdictions to regulate zoning to foster economic development. The only authority that was created as a result of this law was City South Management Authority (authority) in southern Bexar County. The law governing these authorities required certain qualifications of candidates in order to be appointed to serve on their board of directors. This bill:

Decreases the number of directors of the authority from 15 to nine.

Requires that at least three directors appointed by the municipality and at least three directors appointed by the county reside in the authority or own property in the authority.

Requires that a person who does not meet the qualifications of the previous paragraph, to be qualified to serve as a director appointed by the municipality or the county, be an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the authority; an owner of a beneficial interest in a trust that owns property in the authority; or an agent, employee, or tenant of a person who owns property in the authority or is covered by certain other qualifications of this legislation.

Requires the board of an authority to study the effectiveness of the authority.

Requires the board of an authority, not later than December 31 of each even-numbered year, to report to the legislature on the effectiveness of the authority. Sets forth the requirements for the report.

Contributions to the Fund for Veterans' Assistance—S.B. 1635

by Senator Davis—House Sponsor: Representative Farias

The 81st Legislature, Regular Session, 2009, passed S.B. 1940. One of the provisions of the bill approved voluntary contributions to the Fund for Veterans' Assistance (fund) through vehicle registration. The bill as passed did not

specify the requirements in terms of the placement of the check box on the TxDMV registration form and so it was never included on the form. This bill:

Authorizes that a contribution made under this bill be used only for the purpose of the fund for veterans' assistance (fund).

Requires TxDMV to include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing registration to indicate the amount that the person is voluntarily contributing to the fund; provide an opportunity to contribute to the fund similar to the opportunity described in the previous paragraph and in a certain manner in any registration renewal system that succeeds the system in place on September 1, 2011; and provide an opportunity for a person to contribute to the fund during the registration renewal process on TxDMV's Internet website.

Authorizes the county assessor-collector, if a person makes a contribution and does not pay the full amount of a registration fee, to credit all or a portion of the contribution to the person's registration fee.

Requires TxDMV to consult with the Texas Veterans Commission in performing TxDMV's duties.

Unclaimed Property of Veterans and Veterans' Families—S.B. 1660

by Senator Lucio—House Sponsor: Representative Alvarado

According to the United States Department of Veterans Affairs (VA), veterans and their family members may be entitled to receive unclaimed insurance funds totaling \$33 million nationwide. There are currently over 25 million people enrolled nationally in the VA insurance program and unclaimed funds have been accumulating since 1917 when the program first began. The unclaimed insurance funds are owed to individuals who are current or former policy owners and beneficiaries. These unpaid funds include death awards, dividend checks, and premium funds that have not been issued due to individuals not knowing they are eligible and the VA not being able to locate the veterans or their families. This bill:

Requires the Texas Veterans Commission to perform certain tasks, including, with the assistance and cooperation of the comptroller of public accounts, informing and assisting veterans and their families and dependents with respect to discovering and initiating claims for unclaimed property held by the VA.

Authorizing the Adjutant General to Operate Post Exchanges—S.B. 1732

by Senator Van de Putte—House Sponsor: Representative Guillen

The Camp Mabry Army and Air Force Exchange Service (AAFES) was established in April, 1995, with the purpose of providing active duty and retired military members and their families with convenient access to goods and services. With the considerable growth of the military in the state, the Adjutant General's Department is seeking legislative authority to expand and operate exchange services across the state for the Texas Military Forces, other service members, and their families. This bill:

Authorizes the adjutant general to establish and contract for the operation of not more than three military-type post exchanges similar to those operated by the armed forces of the United States on any real property under the management and control of the adjutant general's department (department). Authorizes a post exchange to sell, lease, or rent goods and services, including tobacco products, prepared foods, and beer and wine but not distilled spirits. Authorizes the adjutant general to designate facilities located on department property to use for purposes of this legislation.

Requires the adjutant general to contract with a person to operate a post exchange created under this legislation.

Authorizes a post exchange to sell, lease, or rent goods and services only to certain members of the armed forces and certain dependents of members of the armed forces.

Provides that the post exchange services account is a company fund and is authorized to be used in a manner authorized by the General Appropriations Act for local funds. Provides that the post exchange services account is exempt from the application of Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments), Government Code. Provides that the account consists of money received from the operation of post exchanges and all interest attributable to money held in the account.

Authorizes a post exchange created under this legislation to sell goods and services, including beer and wine but not distilled spirits, for off-premises consumption if the operator of the exchange holds the appropriate license or permit issued by the Texas Alcoholic Beverage Commission (TABC). Requires the licensee or permittee to comply in all respects with the provisions of the Alcoholic Beverage Code and rules of TABC.

Occupational Licensing of Spouses of Members of the Military—S.B. 1733

by Senator Van de Putte—House Sponsor: Representative Menendez

Military spouses continually face a variety of challenges because of their husband's or wife's military service. Improving the lives of spouses of members of the military would positively impact the retention of service members, particularly officers in the military. Occupational licenses are complex because each state has its own requirements for licenses. There is much difficulty in transferring an out-of-state occupational license to a Texas occupational license, which hinders a spouse's ability to find work. This bill:

Requires 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 meets certain qualifications.

Requires that rules adopted include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining a license.

Authorizes the executive director of a state agency to issue a license by endorsement in the same manner as the Texas Department of Licensing and Regulation under Section 51.404 (Endorsement; Reciprocity), Occupations Code, to an applicant who meets certain requirements.

College Credit for Heroes Program—S.B. 1736

by Senators Van de Putte and Davis—House Sponsor: Representative Castro et al.

Countless Texas veterans receive top-level training in the military, but have a hard time getting college credit for their knowledge and skills when they return to civilian life. The Texas Workforce Commission (TWC) is working with THECB and community colleges on a plan to offer veterans credit for their skills and experience. This bill:

Requires 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 training obtained during military service in order to expedite the entry of veterans and military servicemembers into the workforce.

Requires TWC to work cooperatively with other state agencies, including THECB, public junior colleges, and other institutions of higher education, to accomplish the purposes of this legislation.

Authorizes TWC to award grants to state, local, or private entities that perform activities related to the purposes of this legislation. Requires TWC to administer the program using money previously appropriated to TWC or received from federal or other sources.

Accrual and Use of Leave of Absence for Certain Training or Duty—S.B. 1737

by Senator Van de Putte—House Sponsor: Representative Flynn

Federal employees can accrue 15 days of military leave per federal fiscal year. This time can be carried over to the next fiscal year, as long as the maximum balance of military leave is not more than 30 days. In Texas, state employees who are members of the state military forces, which is a reserve component of the armed forces, can accrue up to 15 days of military leave per federal fiscal year. Currently, there is no carry-over benefit in place. Additionally, state employees who are called to state active duty by the governor as a member of the state military forces are entitled to receive paid emergency leave. State active duty is often used during a response to an emergency, but members of the Texas Army National Guard and the Texas Air National Guard might transition from state active duty to federal active duty while responding to an emergency. This transition impacts the type of leave they utilize during the emergency response. There is an increasing emphasis from the Department of Defense to use reserve components of the armed forces to assist civilian authorities during emergencies. The federal government provides federal employees who perform military duties in support of civil authorities in a declared emergency (or training for that purpose) up to 22 days emergency military leave. This bill:

Provides that an officer or employee of the state is entitled to carry forward from one federal fiscal year to the next the net balance of unused accumulated leave that does not exceed 45 workdays.

Provides that a state employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave or annual leave.

Fund for Veterans' Assistance—S.B. 1739

by Senators Davis and Van de Putte—House Sponsor: Representative Pickett

The Texas Veterans Commission's Fund for Veterans' Assistance (fund) is a special fund outside of the general revenue fund. The fund is a program that makes reimbursement grants to eligible charitable organizations, local government agencies, and veteran service organizations that provide direct services to Texas veterans and their families. Some of these services include counseling for post-traumatic stress disorder and traumatic brain injuries, limited emergency financial assistance, housing assistance for homeless veterans, and family and child services. The primary source of support for the fund comes from the sale of \$2 Veterans Cash scratch-off tickets, as well as gifts and grants to the fund. This bill:

Authorizes money in the fund to only be appropriated to the Texas Veterans Commission.

Requires that money appropriated under this legislation be used to make grants to address veterans' needs and administer the fund.

Specialty License Plates—S.B. 1755

by Senator Van de Putte—House Sponsor: Representative Wayne Smith

The Transportation Code allows veterans entitled to a disabled veteran specialty license plate to also display one emblem of a military decoration issued under Section 504.308 (Distinguished Flying Cross Medal Recipients), 504.315 (Military Specialty License Plates For Extraordinary Service), or 504.316 (Legion of Merit Medal Recipients). This bill:

Authorizes license plates issued under this section to a person also entitled to license plates issued under Section 504.308 or 504.316, other than license plates issued under Section 504.202(h) (relating to authorizing a person entitled to license plates under this section to elect to receive license plates issued under Chapter 502 (Registration of Vehicles) under the same conditions for the issuance of license plates under this section), Transportation Code, to, at the request of the person, include one emblem from the other license plate to which the person is entitled.

Requires TxDMV to issue specialty license plates for recipients of the Distinguished Service Medal. Requires that license plates issued under this bill include the Distinguished Service Medal emblem and the words "Distinguished Service Medal" at the bottom of each plate. Provides that Section 504.702 (Specialty License Plates Authorized After January 1, 1999), Transportation Code, does not apply to license plates authorized by this bill.

Creation of the Texas Coordinating Council for Veterans Services—S.B. 1796

by Senators Van de Putte et al.—House Sponsor: Representative Sid Miller

Currently, there is no concentrated effort to coordinate state agencies that work with veteran populations. This bill:

Establishes the Texas Coordinating Council for Veterans Services (council) to coordinate the activities of state agencies that assist veterans, servicemembers, and their families; coordinate outreach efforts that ensure that veterans, servicemembers, and their families are made aware of services; and facilitate collaborative relationships among state, federal, and local agencies and private organizations to identify and address issues affecting veterans, servicemembers, and their families.

Sets forth the composition of the council.

Authorizes the council, by majority vote, to establish health or mental health workgroups, employment workgroups, higher education workgroups, criminal justice workgroups, housing workgroups, and any other coordinating workgroup considered necessary to focus on specific issues affecting veterans, servicemembers, and their families.

Sets forth the requirements of the workgroups if the council votes to establish the workgroups.

Requires the executive director of the Texas Veterans Commission to serve as the presiding officer of the council.

Requires the council to meet at least annually and at the call of the presiding officer.

Requires the council to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the appropriate committees of the legislature detailing the work of the council and any recommendations.

Pharmaceutical Services and Workers' Compensation—H.B. 528

by Representative Solomons—Senate Sponsor: Senator Van de Putte

The Texas Department of Insurance's (TDI) certified workers' compensation networks allow a carrier to direct an enrolled injured employee to seek workers' compensation health care benefits, except for pharmaceutical benefits, within the network of providers. Voluntary or informal workers' compensation networks are required to register with TDI's division of workers' compensation (division) and to become certified workers' compensation networks. This bill:

Requires the commissioner of workers' compensation (commissioner) to adopt a fee schedule for pharmacy and pharmaceutical services that will take into consideration the increased security of payment afforded.

Defines an "informal network" as a network established under a contract between an insurance carrier and a health care provider for the provision of pharmaceutical services and includes a specific fee schedule.

Defines a "voluntary network" as a voluntary workers' compensation health care delivery network established by an insurance carrier for the provision of pharmaceutical services.

Provides that prescription medication or services may be reimbursed in accordance with the fee guidelines adopted by the commissioner or at a contract rate and may not be delivered through a workers' compensation health care network or contract.

Authorizes an insurance carrier to 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 and that contract includes a specific fee schedule.

Authorizes an insurance carrier to use an informal or voluntary network to obtain a contractual agreement that provides for fees different from the fees authorized under the fee guidelines adopted by the commissioner for pharmaceutical services.

Requires that if a carrier chooses to use an informal or voluntary network to obtain a contractual fee agreement, there be a contractual arrangement between the carrier and the informal or voluntary network that authorizes the network to contract with health care providers for pharmaceutical services on the carrier's behalf and the informal or voluntary network and the health care provider that includes a specific fee schedule and complies with the notice requirements.

Requires an informal or voluntary network or the carrier to, at least quarterly, notify each health care provider of any person, other than an injured employee, to which the network's contractual fee arrangements with the health care provider are sold, leased, transferred, or conveyed.

Requires notices to each health care provider to include the contact information for the network and the name, physical address, and telephone number of any person to which the network's contractual fee agreement with the health care provider is sold, leased, transferred, or conveyed and the start date and any end date of the period during which any person to which the network's contractual fee arrangement with the health care provider is sold, leased, transferred, or conveyed.

Provides that the notices to each health care provider may be provided in an electronic format and through an Internet website link.

Requires an informal or voluntary network to document the delivery of the notice required, including the method of delivery, to whom the notice was delivered, and the date of delivery.

Requires an insurance carrier or an informal or voluntary network, at the carrier's request, to provide copies of each contract, which is confidential and not subject to disclosure under the Public Information Act.

Allows the insurance carrier be required to pay fees in accordance with the division's fee guidelines if the contract is not provided to the division, does not include a specific fee schedule, does not clearly state that the contractual fee arrangement is between the health care provider and the named insurance carrier, or the carrier does not comply with the notice requirements.

Provides that failure to provide documentation to the division on the request of the division or failure to provide required notice creates a rebuttable presumption in an enforcement action and in a medical fee dispute that a health care provider did not receive the notice.

Requires that any administrative penalty assessed be assessed against the carrier, regardless of whether the carrier or agent of the carrier committed the violation.

Requires each informal or voluntary network to, not later than the 30th day after the date the network is established, report the name of the informal or voluntary network and federal employer identification number; an executive contact for official correspondence; a toll free telephone number by which health care providers may contact the network; a list of each insurance carrier with whom the network contracts, including the carrier's federal employer identification number; and a list of each entity with which the network has a contract or other business relationship that benefits or is entered into on behalf of an insurance carrier.

Requires each informal or voluntary network to report any changes to the information to the division not later than the 30th day after the effective date of the change.

Requires each informal or voluntary network to submit a report, including a report of changes, to the division through the division's online reporting system available through the division's Internet website.

Prohibits prescription medication or services from being delivered, directly or through a contract, through a workers' compensation health care network.

Staff Leasing Services and Workers' Compensation Claims—H.B. 625

by Representative Solomons—Senate Sponsor: Senator Carona

A workers' compensation carrier must provide a policyholder with certain claims data within 30 days of a request, but there is no requirement for a staff leasing services company to provide this information to a client employer if the company provides the workers' compensation insurance. This bill:

Requires a license holder that elects to provide workers' compensation insurance for assigned employees, on the written request of a client company, to provide to the client company a list of claims associated with that client made against the license holder's workers' compensation policy and payments made and reserves established on each claim.

Requires the license holder to provide the information in writing from the license holder's own records, if the license holder is a qualified self-insurer, or from information the license holder received from the license holder's workers' compensation insurance provider, not later than the 60th day after the date the license holder receives the client company's written request.

Provides that a staff leasing services company license holder commits a violation if the license holder fails to provide the information required and provides that a violation is an administrative violation.

Establishes that a staff leasing services company license holder does not commit an administrative violation if the license holder requested the information required from the license holder's workers' compensation insurance provider and the provider does not provide the information to the license holder within the required time.

Requires a license holder to notify TDI of a provider's failure to comply with the requirements.

Overpayment and Underpayment of Benefits Under Workers' Compensation—H.B. 2089

by Representative Smithee—Senate Sponsor: Senator Fraser

The workers' compensation division of TDI has interpreted state law relating to workers' compensation as providing that a claimant is entitled to only those benefits afforded by the law. In an effort to ensure the prompt payment of benefits, overpayments and underpayments occasionally occur, which the law does not specifically address. This bill:

Entitles an employee to timely and accurate income benefits.

Requires the commissioner to establish a procedure by which an insurance carrier may recoup an overpayment of income benefits from future income benefit payments that are not reimbursable and shall pay an underpayment of income benefits, including interest on accrued but unpaid benefits.

Requires that the procedure include a process by which an injured employee may notify the insurance carrier of an underpayment; the time frame and methodology by which an insurance carrier shall pay to an injured employee an underpayment; a process by which an insurance carrier shall notify an injured employee of an overpayment of income benefits; the time frame and methodology by which an insurance carrier may recoup an overpayment through the reduction of a future income benefit payment; and a method for coordinating overpayments that may be recouped from future income benefits and reimbursements.

Requires that the procedure for recouping overpayments take into consideration the cause of the overpayment and minimize the financial hardship to the injured employee.

Workers' Compensation Data Collection—S.B. 800

by Senator Duncan—House Sponsor: Representative Elkins

The division collects a variety of data, including claims information, benefit programs, medical treatment information, and workers' compensation insurance coverage information and is authorized to contract with a data collection agent to fulfill the data collection requirements of the Texas Workers' Compensation Act if contracting for such services is determined to be cost-effective. This bill:

Authorizes the commissioner to designate and contract with one or more data collection agents to fulfill the data collection requirements.

Provides that to qualify as a data collection agent, an organization must demonstrate at least five years of experience in data collection, data maintenance, data quality control, accounting, and related areas.

Authorizes a data collection agent to collect from a reporting insurance carrier, other than a governmental entity, any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurance carrier.

Requires a reporting insurance carrier, other than a governmental entity, to pay the fee to the data collection agent for the data collection services provided by the data collection agent.

Authorizes the commissioner to adopt rules necessary to implement this legislation.

Establishes elsewhere in the Labor Code that a data collection agent must be qualified and may collect fees.

Adjudication of Certain Workers' Compensation Disputes—S.B. 809

by Senator Seliger—House Sponsor: Representative Giddings

The period for appealing most administrative decisions in district court generally is 30 days. Until recently, an injured employee appealing an administrative decision regarding income benefits under the state's workers' compensation law had 40 days to file an appeal. Recent legislation increased the time frame in which to appeal income benefit administrative decisions from 40 to 45 days, with the expectation that giving an injured employee more time to find an attorney to represent the employee in district court would decrease the incidence of default judgments against injured employees who could not find such legal representation. This bill:

Provides that if a suit is filed within the 45-day, rather than 40-day, period and is transferred, the suit is considered to be timely filed in the court to which it is transferred.

Requires that judicial review for a party who is aggrieved by a final decision of the division of the State Office of Administrative Hearings (SOAH) be conducted in the manner provided for judicial review of a contested case, except that in the case of a medical fee dispute the party seeking judicial review must file suit not later than the 45th day after the date on which SOAH mailed the party the notification of the decision, which is considered the fifth day after the date the decision was issued by SOAH.

Requires that judicial review for a party who is aggrieved by a final decision of the hearings officer in a contested hearing be conducted in the manner provided for judicial review of a contested case, except that the party seeking judicial review must file suit not later than the 45th day after the date on which the division of workers' compensation mailed the party the decision of the hearings officer, which is considered the fifth day after the date the decision of the hearings officer was filed.

Provides that an issue regarding whether a carrier properly provided an employee the required information may be resolved using the process for adjudication of disputes in the Labor Code.

Provides that an issue regarding whether an employer properly provided an employee the required information may be resolved using the process for adjudication of disputes in the Labor Code.

Workers' Compensation Insurance—S.B. 1714

by Senator Duncan—House Sponsor: Representative Chisum

A federal judicial decision permits an employee covered by a non-workers' compensation occupational plan to provide a pre-injury waiver of an employee's work-related injury cause of action against the employer as long as the employer has workers' compensation insurance in addition to an occupational plan. This bill:

Provides that in an action against an employer by or on behalf of an employee who is not covered by workers' compensation insurance obtained in the manner authorized by the Labor Code to recover damages for person injuries or death sustained by an employee in the course and scope of the employment, it is not a defense that the

employee was guilty of contributory negligence; the employee assumed the risk of injury or death; or the injury or death was caused by the negligence of a fellow employee.

Provides that the cause of action is subject to all defenses available under common law and the statutes of this state unless the employee has waived coverage in connection with an agreement with the employer.

Severance Pay and Unemployment Benefits—H.B. 14

by Representative Murphy et al.—Senate Sponsor: Senator Eltife

Currently, a person who is laid off or whose employment is otherwise terminated is not eligible for unemployment benefits if the person receives wages in lieu of notice, workers' compensation, or disability pay. Severance pay is currently not included in other types of remuneration that would disqualify a person from unemployment benefits. This bill:

Provides that an individual is disqualified for benefits for a benefit period for which the individual is receiving or has received remuneration in the form of wages in lieu of notice, severance pay, or compensation under a state worker's compensation law or a similar law of the United States for temporary partial disability, temporary total disability, or total and permanent disability.

Authorizes the Texas Workforce Commission to adopt rules as necessary to administer provisions of the bill.

Resumption of Employment by Texas Municipal Retirement System Retirees—H.B. 159

by Representative Raymond—Senate Sponsor: Senator Zaffirini

Currently, an individual who retires from a municipality and receives retirement benefits from the Texas Municipal Retirement System (TMRS) will continue to receive TMRS retirement benefits while working anywhere else, including another municipality, as long as the individual is not reemployed by the municipality from which the individual retired. If the individual resumes employment at the municipality from which the individual retired, TMRS will suspend the individual's benefits to prevent "double dipping." After the individual retires again from the municipality, he or she will have lost the retirement benefits he or she would have received during the time the benefits were suspended. This bill:

Requires that a person 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 person's annuity payments not been discounted and suspended 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 effective date of the person's retirement.

Impaired Veterinarian Participation in a Peer Assistance Program—H.B. 412

by Representative Aycock—Senate Sponsor: Senator Hegar

Current law authorizes the Texas State Board of Veterinary Medical Examiners (TSBVME) to establish a peer assistance program that complies with provisions of the Health and Safety Code relating to peer assistance programs for professionals who are impaired by chemical dependency or drugs or alcohol or by mental illness. This bill:

Authorizes TSBVME to issue a disciplinary order requiring an impaired veterinarian to participate in the program.

Business Leave Time for Certain Municipal Firefighters and Police Officers—H.B. 1057

by Representative Anchia—Senate Sponsor: Senator West

Under current law, municipal firefighters and police officers who are members of employee organizations are not authorized to donate accumulated vacation or compensatory time to a business leave time account for other firefighters who are members of the employee organization to use for business leave purposes. This bill:

Authorizes police officers and certain municipal firefighters to donate time for each month of accumulated vacation or compensatory time to the business leave time account of an employee organization.

Requires a municipality to establish and maintain a business leave time account for each employee organization that has approved or ratified the use of a business leave time account.

State Employee Charitable Campaign Contributions by Retired Employees—H.B. 1608

by Representative Strama—Senate Sponsor: Senator Watson

The Texas Legislature created the state employee charitable campaign to allow a state employee to authorize deductions from the employee's monthly paycheck for a charitable contribution. Currently, retired state employees may not participate in the campaign using automatic monthly deductions and they do not have representation on the charitable campaign policy committee or the local employee committee. This bill:

Requires that the state charitable campaign policy committee be composed of employees and retired state employees receiving benefits and represent employees at different levels of employee classification.

Provides that one or more members of the local employee committee may be retired state employees receiving retirement benefits.

Adds Sections 814.0095 (Charitable Deduction From Annuity) and 814.0096 (Coordination With State Employee Charitable Campaign Policy Committee) to the Government Code.

Provides that a person who receives an annuity on a printed or electronic form filed with the retirement system may authorize the retirement system to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purpose for which a state employee may authorize deductions to that campaign.

Provides that an authorization for a deduction must direct the board of trustees to deposit the deducted funds with the comptroller of public accounts (comptroller) for distribution in the same manner in which a state employee's deduction is distributed.

Provides that an authorization for a deduction remains in effect for the period described in the Government Code unless the person revokes the authorization by giving notice to the board of trustees.

Authorizes the board of trustees to adopt rules that must be consistent with the comptroller's rules related to the state employee charitable campaign.

Requires the board of trustees and the state employee charitable campaign policy committee to coordinate responsibility for the administration of charitable deductions from annuity payments to the state employee charitable campaign.

Authorizes the state policy committee to approve a budget that includes funding for as many of the expenses incurred by the retirement system associated with the implementation and administration of annuitants' participation in the state employee charitable campaign as is practicable, including notification of annuitants.

Requires the board of trustees to charge an administrative fee to cover costs in the implementation of Section 814.0095 to the charitable organizations participating in the state employee charitable campaign in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign,

determine the most efficient and effective method of collecting the administrative fee, and adopt rules for the implementation.

Authorizes the board of trustees and the state policy committee, if necessary, to make the annuity deduction authorization available in stages to subgroups of the retirement system's annuity recipients as money becomes available to cover expenses.

Exemption from Private Security Regulation for Social Workers—H.B. 1779

by Representative Naishtat—Senate Sponsor: Senator Watson

Licensed social workers are often hired by a court or a defense attorney to do assessments of defendants' backgrounds, and psychological history during the sentencing phase of capital punishment cases. These mitigation specialists research the life histories of the criminally accused by interviewing family members and others involved; review educational, medical, and criminal records; and write a comprehensive assessment to provide a better understanding of the defendant's history and its impact on his or her actions. These functions are authorized by the Social Work Practice Act of the Occupations Code.

Some private investigators have challenged the legal ability of a licensed social worker to collect information for a court case or to provide court testimony about an individual's background, if the licensed social worker is not also licensed as a private investigator through the Private Security Bureau. This bill:

Exempts licensed social workers who hold a license issued by the Texas State Board of Social Work Examiners and who are engaged in the practice of social work from requirements of the Private Security Act of the Occupations Code.

Postsecondary Programs of Instruction—H.B. 1839

by Representative Phillips—Senate Sponsor: Senator Jackson

Chapter 132 (Career Schools and Colleges), Education Code, defines a career school or college as one that offers a postsecondary program of instruction that may lead to an academic, professional, or vocational degree, certificate, or other recognized educational credential. However, because the word "postsecondary" is not defined in that chapter, the Texas Workforce Commission (TWC) does not have clear direction in choosing which courses are to be considered as offered by career schools or recreational organizations. Because of this interpretation, TWC has been requiring businesses offering children's acting, dog grooming, teen modeling, and yoga classes to register as career schools. This bill:

Provides that Chapter 132 does not apply to a school or training program that offers only a vocational 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.

Temporary Suspension of a Municipal Firefighter—H.B. 2516

by Representative Alvarado—Senate Sponsor: Senator Gallegos

Currently, certain municipalities have civil service procedures relating to the termination, suspension, and reinstatement of fire fighters. To provide civil service commissions and independent hearing examiners the discretion to provide temporary suspensions for firefighters up to 90 days in lieu of termination, the Local Government Code must be amended. This bill:

Provides that certain local civil service commissions or independent hearing examiners may reduce indefinite suspensions of fire fighters to temporary suspensions that do not exceed 90 days.

State Employee Wage Deduction for a Charitable Organization—H.B. 2549

by Representative Crownover—Senate Sponsor: Senator Estes

The Texas State Historical Association (TSHA) is a nonprofit educational organization whose mission is to further the appreciation, understanding, and teaching of Texas' rich and unique history through research, writing, and publication of related historical material. TSHA accomplishes this mission by promoting research and writing on Texas history by and for a variety of audiences, including students, academic scholars, and the general public. TSHA services are provided for free or at minimal costs to users. Public funds make up only a small percentage of TSHA's funding and the remainder of TSHA's resources are provided by individual and foundation support. With the national economic recession affecting all state organizations, interested parties believe that it is necessary to find alternate sources of revenue. This bill:

Authorizes a charitable historical organization to be considered as an eligible charitable organization entitled to participate in a state employee charitable campaign.

Amends provisions related to the State Employee Charitable Campaign Policy Committee so its members may not receive compensation for being a member of the committee.

Modifies the composition of the committee.

Prohibits a person from being a member of the committee if the person or the person's spouse is employed by or participates in the management or sits on the board of any entity or organization, including any federation or fund, that receives money through the state employee charitable campaign.

Requires a state employee or retired state employee receiving certain charitable benefits who chooses to make a deduction to designate in the authorization an eligible charitable organization to receive the deductions.

Definition of "School Year" and the Teacher Retirement System—H.B. 2561

by Representative Eissler—Senate Sponsor: Senator Duncan

Currently, a member of the Teacher Retirement System of Texas (TRS) must render sufficient service in a school year to earn one year of membership of service credit. The school year varies from member to member because the law allows a member's school year for TRS purposes to be based on the member's contract year for employment purposes. The different 12-month periods constituting a school year or lack of a standardized definition of "school year" complicate the crediting of compensation and the establishment of TRS service credit, making it difficult to automate retirement processes for many TRS members and retirees. This bill:

Defines "school year" as a 12-month period beginning September 1 and ending August 31 of the next calendar year.

Penalties and Sanctions Under the Texas Unemployment Compensation Act—H.B. 2579

by Representatives John Davis and Miles—Senate Sponsor: Senator Deuell

Currently, Texas employers pay unemployment insurance (UI) taxes on wages paid to workers who are classified as employees but do not pay UI taxes on wages paid to workers who are classified as independent contractors. If TWC finds that an employer has misclassified workers, an employer must pay taxes on the unreported wages and an

interest penalty associated with the late payment of taxes. In some cases, employers classify workers based on a court ruling or previous TWC determination that the service performed by an individual was not considered employment. In these cases, if a subsequent ruling or determination finds that the service is employment, the employer is still subject to penalties, interest, and sanctions. This bill:

Provides that it is reasonable for an employer to rely on a court ruling or TWC determination that service performed by an individual, including service in interstate commerce, is not employment if the ruling is a judicial decision or precedent, including a published opinion, from a court in this state, or a TWC decision involving the employer as a party or a subject; and the ruling or determination has not been reversed or otherwise invalidated.

Requires TWC to relieve an employer that reasonably relies on a ruling or determination from certain penalties, interest, or sanctions that result from a subsequent ruling or determination that the service in question is employment.

Provides that an employer who receives relief is not indebted to the state for the penalties, interest, or sanctions from which the employer is relieved and is prohibited from being considered delinquent on the payment of taxes, to the extent of the amount from which the employer is relieved.

Authorizes an employer to reasonably rely on a ruling or determination until the earlier of the effective date of the subsequent ruling or determination invalidating the ruling or determination on which the employer reasonably relied or the third anniversary of the due date of a contribution based on the service in question.

Applies only if TWC determines that the nature of the business and the service in question are substantially unchanged from the time the initial ruling was issued or the initial determination was made.

Extended Unemployment Benefits—H.B. 2831

by Representative Darby—Senate Sponsors: Senators Eltife and Zaffirini

Extended benefits are unemployment insurance benefits paid to individuals who have exhausted regular benefits. The period of time during which extended benefits may be paid is called an extended benefit eligibility period and depends on the state's total unemployment rate and insured employment rate during a specific period of high unemployment. Normally, the cost of extended benefits is shared, with 50 percent of the cost financed by the federal government and the other 50 percent financed in the same manner as regular benefits. Recently, Congress authorized 100 percent federal financing of extended benefits, and the legislature authorized the Texas Workforce Commission (TWC) to adjust the extended benefit eligibility period as necessary to maximize receipt of any 100 percent federally funded benefits for the fiscal biennium ending August 31, 2011. Because Congress subsequently continued full federal funding for the benefits until January 2012, TWC needs authorization to adjust the eligibility period by rule to pay extended benefits when 100 percent federal funding is authorized by Congress. This bill:

Authorizes TWC 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.

Public Retirement Systems of Certain Municipalities—H.B. 3033

by Representative Naishtat et al.—Senate Sponsor: Senator Watson

The City of Austin's Employee Retirement System (system) currently has approximately 8,300 active employee members and pays benefits to approximately 4,300 retirees. Although the system is currently able to pay benefits to retirees and is not at immediate risk of insolvency, it is beginning to show the effects of reduced investment returns combined with the future projected costs of its current retirement and benefits package. The system has a funded

ratio of 70 percent, meaning it has only 70 percent of the funds needed to pay benefits for current and future workers, below the recommended minimum ratio of 80 percent. This bill:

Establishes a retirement system for employees of each municipality having a population of more than 760,000, rather than 600,000, and less than 860,000.

Provides that any right or privilege accruing to any member of a retirement system (member) is a vested right.

Establishes that this legislation continues to apply to a municipality of more than 760,000 and less than 860,000 and that a retirement system established by this legislation continues to operate regardless of any change in the municipality's population.

Defines an "agency of the municipality" as any agency or instrumentality of the municipality or governmental or publicly owned legal entity created before or after, rather than subsequent to, the effective date of this legislation, to perform or provide a public service or function and that employs at least one employee to provide services or accomplish its public purpose.

Establishes that "average final compensation" does not include annual compensation in excess of the dollar limit established in the United States Internal Revenue Code (code) for any employee who first becomes a member in a year commencing after 1995, and that compensation shall be disregarded in determining average final compensation.

Establishes that any reduction for overtime, incentive, and terminal pay shall not cause a member's compensation to be less than the limit of the code to the extent that the compensation has already been reduced and requires the dollar limitation be adjusted for cost of living increases.

Establishes that compensation in excess of the dollar limit of the code shall be disregarded in determining the compensation of any employee who first becomes a member in a year commencing after 1995 and requires the dollar limitation be adjusted for cost of living increases.

Establishes the formula for calculating the equal monthly payments of the "current service annuity" for Group A and Group B members.

Defines "early retirement annuity" as an annuity that is the actuarial equivalent of a current service annuity that would otherwise be payable at age 65 but that is reduced based on the member's actual age in years and months.

Defines an "early retirement eligible member" as a member of Group B who is at least 55 years of age and has at least 10 years of creditable service, excluding nonqualified permissive service credit.

Defines "Group A" as the group of members of the retirement system that includes each member who began a membership service on or after January 1, 1941, and on or before December 31, 2011 or returned to full-time employment on or after January 1, 2012, and was previously a member of Group A, ceased to be a member of the retirement system, received a distribution of the member's accumulated deposits, and reinstated all of the member's prior membership service credit.

Defines "Group B" as the group of members that includes each member who began membership service on or after January 1, 2012, or returned to full-time employment on or after January 1, 2012, and was previously a member of Group A, ceased to be a member of the retirement system, received a distribution of the member's accumulated deposits, and has not reinstated all of the member's prior membership service credit.

WORKERS' COMPENSATION

Defines "life annuity" as a series of equal monthly payments, payable after retirement for a member's life, consisting of a combination of prior service pension and current service annuity, or early retirement annuity, to which the member is entitled.

Establishes the formula for calculating the "normal retirement age" for members of Group A and Group B.

Defines "prior service" as membership service as an employee of the city and sets out the formula for calculating the equal monthly payments for a prior service pension.

Provides that members of the retirement system on or before December 31, 2011, shall be enrolled as members of Group A and persons who first become members on or after January 1, 2012, shall be enrolled in Group B.

Provides that a member of the retirement system is not precluded from purchasing qualified military service to which the member is entitled solely because the member, before beginning a leave of absence for qualified military service, purchased creditable service for military service performed before becoming employed by the employer.

Provides that an active contributory member who is eligible for retirement may file a written application to convert to creditable service at retirement all or part of the member's sick leave accrued with the employer that is eligible for conversion and establishes other stipulations regarding sick leave.

Establishes that nonqualified permissive creditable service may be purchased only in an amount that is not less than one month and when all amounts purchased are combined, is not more than 60 months and only if the member has reinstated all prior membership service in Groups A and B, with certain qualifications.

Provides that nonqualified permissive creditable service purchased by members of Group B is not included in the creditable service required to qualify a member for normal or early retirement eligibility.

Provides that a member who retires on or after the member's normal retirement date for the group in which the member is enrolled, or a member of Group B eligible for early retirement who retires and applies in writing, shall receive the life annuity or the early retirement annuity to which the member is entitled.

Provides that if not already nonforfeitable, a member's retirement benefit becomes nonforfeitable at normal retirement age.

Provides that a member selecting the option of the "equivalent benefit plan" may elect to receive either a life annuity or one of the actuarially equivalent annuities and a lump-sum payment upon retirement, with stipulations regarding the lump-sum payment and a backward deferred retirement option or backward DROP program.

Provides that if a member dies while performing qualified military service, the beneficiaries of the member are entitled to any additional benefits, other than benefit accruals relating to the qualified military service, that would have been provided if the member had returned from the military leave of absence and then terminated employment on account of death.

Requires that the maximum benefits allowed increase each year to the extent permitted by annual cost of living increase adjustments and that the increased benefit limits apply to members who have terminated employment, including members who have commenced to receive benefits, before the effective date of the adjustment.

Provides that a member who retires after reaching normal retirement age and continues or resumes employment with an employer in a position that is required to participate in another retirement system continues to be eligible to receive the retirement allowance provided this legislation.

Requires the retirement board to suspend the retirement allowance of a retired member who resumes employment with an employer within the period of time prescribed in the board's policy, or who resumes employment after retirement as a regular full-time employee of an employer

Requires the retirement board to suspend the retirement allowance of a retired member who resumes employment with an employer in a position that is not required to participate in another retirement system maintained by an employer, and who is not a regular full-time employee of an employer, if the member works for, or is compensated by, an employer for more than 1,508 hours in any rolling 12-month period after the member resumes employment with the employer.

Allows a member whose retirement allowance is suspended to apply in writing for reinstatement of the retirement allowance when the member retires again and requires that the reinstated retirement allowance be calculated based on the member's total creditable service, reduced actuarially to reflect the gross amount of total retirement allowance paid to the member prior to suspension of the retirement allowance.

Requires the retirement system and the employer to adopt and amend procedures for the exchange of information.

Requires that each active contributory member make deposits to the retirement system at a rate equal to eight, rather than seven, percent of the member's base compensation, pay, or salary and makes conforming changes to reflect this change.

Provides that members of the retirement system who are enrolled in Group A shall have the rights and be entitled to the benefits for members in Group A and the members who are enrolled in Group B shall have the rights and be entitled to the benefits for members in Group B provides that a member may not be a member of both Group A and Group B.

Establishes that an eligible rollover distribution does not include the portion of any distribution that is not included in gross income unless the distributee directs that the eligible rollover distribution be transferred directly to a qualified trust that is part of a defined contribution plan that agrees to separately account for the portion that is includable in gross income and the portion that is not, or to an individual retirement account or individual annuity.

Defines an "eligible retirement plan" as an individual retirement account, an individual retirement annuity, an annuity plan, a qualified trust, an eligible deferred compensation plan which is maintained by an eligible employer, or an annuity contract that accepts the distributee's eligible rollover distribution, but provides that in the case of an eligible rollover distribution to a designated beneficiary who is not the surviving spouse or the spouse or former spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity only.

County Civil Service Commission Authority to Administer Oaths and Issue Subpoenas—H.B. 3788

by Representative Marquez—Senate Sponsor: Senator Davis

Current law provides for a system of civil service for county employees and members of sheriff's departments in certain counties. This civil service system provides a mechanism for disciplinary action and appeal for its members and helps address relevant workplace issues. Establishing provisions relating to the authority of a county civil service commission to administer oaths and issue subpoenas will bolster this system. This bill:

Requires the chairman of the county civil service commission to administer oaths and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material on the request of certain persons in a proceeding before the commission.

Provides requirements for the administration of oaths and issuance of subpoenas. Provides that it is an offense for a person who has been subpoenaed to fail to appear before the commission, and provides a penalty.

Exclusion From Unemployment Compensation Chargebacks—S.B. 439

by Senator Van de Putte—House Sponsor: Representative Sheets

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S.C. Section 4301 et seq.) ensures that members of the uniformed services are entitled to return to their civilian employment upon completion of their military service and that a service member is reinstated with the seniority, status, and rate of pay the service member would have enjoyed had the service member remained continuously employed by the civilian employer. Currently, when an individual is hired by an employer on a temporary basis to accommodate the absence of an employee performing military service, the temporary employee is laid off upon the return of the service member from military duty in compliance USERRA. The laid-off employee is eligible for unemployment insurance benefits and the employer's tax account is subject to the liability associated with that eligible unemployment insurance claim. Employers are already protected under the Labor Code from such "chargebacks" when the service member is called to active duty but is not protected from chargebacks when a temporary employee is laid off after the return of the service member. This bill:

Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year was, among other things, caused by the employer's reinstatement of a qualified uniformed service member with reemployment rights and benefits and other employment benefits in accordance with USERRA.

Initial Claims Under the Unemployment Compensation System—S.B. 458

by Senator Seliger—House Sponsor: Representative Woolley

Under current law, an individual who is discharged by an employer for misconduct or who leaves voluntarily without good cause can avoid a disqualification from unemployment insurance benefits by accepting a temporary or brief position. The entire liability for unemployment insurance is then absorbed by the claimant's prior employer or by the Unemployment Insurance Trust Fund. This bill:

Provides that "last work" and "person for whom the claimant last worked," when used in connection with an initial claim, 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 the employer, as defined by statute or by the unemployment law of any other state for whom the claimant last worked.

Efficiency of the Operations of the Texas Workforce Commission—S.B. 563

by Senator Jackson—House Sponsor: Representative Torres

Certain business methodologies have been used to improve the efficiency and quality of business operations while reducing costs by identifying and removing the causes of defects and by minimizing variability across business processes. This bill creates a pilot program, set to expire September 1, 2013, within TWC to implement an organizational approach using specific quality management tools to improve the efficiency and quality of TWC operations.

Additionally, unemployment insurance claimants are currently required to register in *Workintexas.com* to comply with their respective job search requirements. However, the unemployment insurance claimant's personal information entered into *Workintexas.com* is not confidential as it is subject to disclosure under the Public Information Act.

Section 301.085 (Unemployment Compensation Information; Offense; Penalty), Labor Code, specifically treats unemployment insurance information as confidential and not subject to disclosure. Therefore, allowing disclosure of such information under the Public Information Act is in violation of the Labor Code. No protection from disclosure exists for the common citizen or job seeker who registers in the system or for employers that use *Workintexas.com* to seek qualified candidates. This bill:

Requires TWC to establish a pilot program 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.

Requires TWC, in implementing the pilot program, to use a methodology that includes a define, measure, analyze, improve, and control structure for reviewing project management; includes a continuous improvement technique that identifies value and a value stream, creates a flow for activities, allows consumers to pull products or services through the process, and allows for the process to be perfected over time; and includes a measurement system analysis to evaluate data.

Requires TWC, not later than August 1, 2012, to submit a written report on the effectiveness of the pilot program to the governor, lieutenant governor, speaker of the house of representatives, Senate Committee on Government Organization, House Government Efficiency and Reform Committee, and house and senate committees with primary jurisdiction over state affairs.

Requires TWC to implement the pilot program from available funds that may be used for that purpose.

Authorizes a state agency, other than TWC, to implement the pilot program with respect to the agency and sets forth requirements for an agency that implements the pilot program

Requires TWC to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of job matching services information.

Requires that the rules include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in job matching services information, including any information that foreseeably could be combined with other publicly available information to reveal identifying information regarding the individual, employer, or employing unit, as applicable.

Provides that unemployment compensation information and job matching services information are not public information for purposes of Chapter 552 (Public Information), Government Code.

Provides that unless permitted by statute or TWC rule, a person commits an offense if the person solicits, discloses, receives, or uses, or authorizes, permits, participates in, or acquiesces in another person's use of, certain unemployment compensation information or job matching services information.

Surplus Credits for Successor Employing Units—S.B. 638

by Senator Jackson—House Sponsor: Representative Murphy

Favorable economic conditions and low unemployment can lead to a surplus in the state's UI Trust Fund. Under current law, the surplus credit is awarded to the entity that paid the wages upon which the credit was based, and thus a company that acquires another company does not obtain the surplus credits to which a predecessor company was entitled. The surplus credit that would have been awarded then remains in the UI Trust Fund. This bill:

Provides that a successor employing unit to which compensation experience is transferred is entitled to a surplus credit attributable to, but not applied or received by, the predecessor employing unit.

Provides that a successor employing unit to which compensation experience is transferred is entitled to a surplus credit attributable to, but not applied or received by, the predecessor employing unit if TWC determines that a certain requirement relating to a condition for approving an application to transfer compensation is satisfied.

Provides that a successor employing unit, if TWC determines that a transfer of compensation experience was accomplished solely or primarily for the purpose of obtaining a lower contribution rate, is not entitled to, and may not apply or receive, a surplus credit.

Provides that a predecessor employing unit is not entitled to, and may not apply or receive, all or any portion of a surplus credit that is based on compensation experience that is transferred to a successor employing unit.

Requires TWC to adopt rules necessary to implement and enforce sections of this bill, including rules that ensure that only a successor employing unit applies or receives all or part of a surplus credit previously attributable to a predecessor employing unit.

Resumption of Employment by Texas Municipal Retirement System Retirees—S.B. 812

by Senator Zaffirini—House Sponsor: Representative Raymond

Currently, a person who retires from a municipality participating in TMRS and then is rehired by the same municipality faces a suspension of retirement benefits. The law prohibits TMRS from making any annuity payments, after the suspension, for a month during which the person remains an employee of the reemploying municipality. However, if a person retires from one municipality and then is rehired by a different municipality, that person does not face a suspension of pension payments. This bill:

Requires that a person 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 person's annuity payments not been discounted and suspended 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 effective date of the person's retirement.

Public-Private Partnerships—S.B. 1048

by Senator Jackson—House Sponsor: Representative John Davis

In the last decade, 33 states, including Texas, have enacted legislation to address public-private transactions. While there is an increasing need for the development and construction of new public facilities, including schools, hospitals, emergency response centers, prisons, courthouses, and utilities, the ability to develop these facilities is hampered without a significant increase in taxes. Other states have allowed greater use of a public-private partnership business model in order to develop and construct public facilities. Public-private partnerships bring private expertise, innovation, and financial resources to meet citizen demand for new facilities. This bill:

Adds Chapter 2267 (Public and Private Facilities Infrastructure), Government Code, and sets forth the purpose of the chapter to include encouraging investment in this state by private entities and other persons; facilitating bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of qualifying projects in order to expand and accelerate financing for qualifying projects that improve and add to the convenience of the public; and providing governmental entities with the greatest possible flexibility in contracting with private entities or other persons to provide public services through qualifying projects.

Provides that the procedures in Chapter 2267 are not exclusive and that Chapter 2267 does not prohibit a responsible governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other statutory authority.

Provides that Chapter 2267 does not apply to the financing, design, construction, maintenance, or operation of a highway in the state highway system; a transportation authority created under the certain chapters of the Transportation Code; or any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project.

Provides that Chapter 2267 does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

Prohibits a person from developing or operating a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under Chapter 2267.

Sets forth provisions relating to qualifying projects, including submission of proposals; adoption of guidelines and approval of qualifying projects by responsible governmental entities; service contracts; notification to affected jurisdictions; the dedication and conveyance of public property; powers and duties of the contracting person; comprehensive and interim agreements; federal, state, and local assistance; performance and payment bonds required; material default; eminent domain; affected facility owners; police powers and violations of law; procurement guidelines; and posting of proposals, public comments, and public access to procurement records.

Adds Chapter 2268 (Partnership Advisory Commission), Government Code, to establish the Partnership Advisory Commission (commission).

Provides that the commission is an advisory commission in the legislative branch that advises responsible governmental entities on proposals received under Chapter 2267.

Sets forth provisions relating to the commission, including the composition and terms, compensation and reimbursement of members; meetings; administrative, legal, research, technical and other support; commission proceedings; submission of detailed proposals for qualifying projects, exemptions and commission review; and confidentiality of certain records submitted to the commission.

Provides that certain information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 (Availability of Public Information), Government Code.

Provides that, excepts as specifically provided by statute, the withholding of information concerning the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money; or the performance of any person developing or operating a qualifying project under Chapter 2267, is not authorized.

Postsecondary Program Defined—S.B. 1176

by Senator Jackson—House Sponsor: Representative John Davis

Current law defines a career school or college as a business that offers a course or program of instruction that is postsecondary and that may lead to an academic, professional, or vocational degree, certificate, or other recognized educational credential. Because there is no definition of "postsecondary program," TWC has chosen to seek licensure as a career school of those who are teaching certain classes, such as yoga. This bill:

Defines "postsecondary program" to mean a program that requires a student to have a high school diploma or high school equivalency certificate or requires that a person be beyond the age of compulsory education.

Provides that a program of instruction in yoga or that trains persons to teach yoga is not considered a postsecondary program.

Retirement Systems for Police Officers and Municipalities—S.B. 1285

by Senator Watson—House Sponsor: Representative Strama

Some municipalities establish an agreement with their applicable police officer association to fund a retirement system. To strengthen the actuarial condition of the retirement system, a municipality may increase its contribution, without changing the benefits or eligibility requirements to receive benefits. This bill:

Requires that deposits by the members of the police retirement system of a municipality with a certain population be made at a rate of at least 13, rather than six, percent of the basic hourly earnings of each member.

Requires the Active--Contributory members, on recommendation of the retirement system board, to, by a majority of those voting, increase the rate of member deposits above 13, rather than six, percent to whatever amount the board has recommended.

Authorizes the rate, if the deposit rate for members has been increased to a rate above 13 percent, rather than six percent, to be decreased if the board recommends the decrease, the board's actuary approves the decrease, and a majority of the Active--Contributory members voting on the matter approve the decrease.

Requires a city with a certain population to contribute amounts equal to 19 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2010, and before October 1, 2011; to contribute amounts equal to 20 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2011, and before October 1, 2012; and to contribute amounts equal to 21 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2012.

Funding of Retirement Systems for Firefighters—S.B. 1286

by Senator Watson—House Sponsor: Representative Eddie Rodriguez

The Austin Firefighters Relief and Retirement Fund provides retirement, disability, and death benefits to its members and beneficiaries. These benefits are funded by contributions from the City of Austin and from firefighters. A recent collective bargaining agreement between the city and the local firefighters association increased the city's contribution rate. This bill:

Provides that each municipality in which a fire department to which this legislation applies is located shall appropriate and contribute to the fund an amount equal to a percentage, rather than 18.05 percent, of the compensation of all members during that month and lists specific percentages based on pay dates.

Requires each firefighter to pay into the fund each month a percentage, rather than 13.70 percent, of the firefighter's compensation for that month and lists those specific percentages based on pay dates.

Online Institutions of Education—S.B. 1534

by Senator Shapiro—House Sponsor: Representative John Davis

TWC has regulatory authority over online educational institutions and requires each institution to obtain approval from TWC prior to maintaining, advertising, soliciting for, or conducting any such program in Texas. Current regulations are unclear as to the regulation of online institutions that offer online courses to residents in Texas but that are not physically located in Texas. TWC requires such institutions to obtain a certificate of approval from TWC before they can maintain, advertise, solicit for, or conduct any such online program of instruction in Texas. TWC interprets advertising and soliciting Texas students for such programs so as to include any sort of national television or Internet advertising, even if such solicitation or advertising is not aimed at or limited to Texas. Under this interpretation, all enrollment contracts between online institutions and students living in Texas are considered void and all tuition and fees paid are considered refundable. However, many states are not adhering to this interpretation and have adopted what is referred to as a physical presence test for the exercise of jurisdiction over online institutions. This bill:

Requires the Texas Higher Education Coordinating Board (THECB), at least once every 10 years, to conduct a review of the institutional groupings under THECB's higher education accountability system, including a review of the criteria for and definitions assigned to those groupings.

Requires THECB to include within THECB's higher education accountability system any career schools and colleges in this state that offer degree programs and to determine whether to create one or more separate institutional groupings for entities regardless of whether THECB is conducting a periodic review of institutional groupings.

Requires THECB to consult with affected career schools and colleges regarding the imposition of reporting requirements on those entities and to adopt rules that clearly define the types and amounts of information to be reported to THECB.

Requires THECB to report to each standing legislative committee with primary jurisdiction over higher education regarding any certain entities that do not participate in THECB's higher education accountability system.

Redefines "career school or college" and "representative."

Requires that every career school or college desiring to operate in this state, rather than desiring to operate in this state or do business in this state, make written application to TWC for a certificate of approval.

Prohibits a person from engaging in certain behaviors, including accepting contracts or enrollment applications for or on behalf of a career school or college from a representative who is not bonded; failing to notify TWC of the closure of any career school or college within 72 hours of cessation of classes and making available accurate records as required; and negotiating any promissory instrument received as payment of tuition or other charge by a career school or college prior to completion of 75 percent of the applicable program, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the career school or college named as payee.

Requires a career school or college, as defined by the bill, to post a conspicuous notice on the home page of its website stating that the career school or college is not regulated in Texas; the name of any regulatory agencies that approve and regulate the school's programs in the state where the school is physically located and in which it has legal authorization to operate; and how to file complaints or make other contact with applicable regulatory agencies.

Systems and Programs Administered by ERS—S.B. 1664

by Senator Duncan—House Sponsors: Representatives Truitt and Creighton

The Employees Retirement System of Texas (ERS) administers retirement, health, and other insurance benefits; TexFlex, a tax-savings flexible benefit program; and 401(k) and 457 investment accounts as part of the Texa\$aver Program. ERS also manages and invests the ERS Trust for the sole benefit of retirement system members. This bill:

Provides that any benefits, funds, or account balances payable on the death of a participating employee may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

Establishes that the deferred compensation plan (plan) is not required to change the recipient of any benefits, funds, or account balances unless it receives actual notice of the conviction or adjudication of a beneficiary, but provides that the plan may delay payment of any benefits, funds, or account balances payable on the death of an employee pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

Establishes that a person has been convicted of or adjudicated as having caused the death of a participating employee if the person pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the employee, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired or is found liable by a court or jury in a civil proceeding for causing the death of the participating employee and no appeal of the judgment is pending and the time provided for appeal has expired.

Requires that the state policy committee be composed of employees and retired state employees receiving benefits.

Authorizes one or more members of the state policy committee to be retired state employees receiving retirement benefits.

Requires ERS, not later than June 1, 2016, and once every five years after that date, to provide to the comptroller of public accounts (comptroller), for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property, the name, address, Social Security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

Requires a member claiming credit in the elected class, for each month of membership service not previously credited, to pay a contribution in an amount equal to the greater of eight percent of the monthly salary paid to members of the legislature at the time the credit is established or the appropriate member contribution for a person who holds the office for which credit is sought.

Provides conforming language throughout the Government Code regarding the beneficiary causing death the of a member or annuitant.

Authorizes a person who receives an annuity to authorize ERS to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purposes for which a state employee may authorize deductions to that campaign.

Requires that an authorization must direct the ERS board of trustees (board) to deposit the deducted funds with the comptroller for distribution in the same manner in which a state employee's deduction is distributed.

Provides that an authorization remains in effect for the period described unless the person revokes the authorization by giving notice to the board.

Authorizes the board to adopt rules and provides that any rules adopted must be consistent with the comptroller's rules related to the state employee charitable campaign.

Requires the board and the state employee charitable campaign policy committee to coordinate responsibility for the administration of charitable deductions from annuity payments to the state employee charitable campaign.

Authorizes the state employee charitable campaign policy committee to approve a budget that includes funding for as many of the expenses incurred by the retirement system associated with the implementation and administration of annuitants' participation in the state employee charitable campaign as is practicable, including notification of annuitants.

Requires the board to charge an administrative fee to cover any costs not paid with deducted funds deposited with the comptroller and to determine the most efficient and effective method of collecting the administrative fee and to adopt rules.

Authorizes the board and the state employee charitable campaign policy committee, if necessary, to make the annuity deduction authorization available in stages to subgroups of the retirement system's annuity recipients as money becomes available to cover the expenses.

Provides that a member who was not a member on the date hired, was hired on or after September 1, 2009, and has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member has at least 10, rather than five, years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

Requires that to be eligible to lend securities, a bank or brokerage firm must require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian or securities lending agent collateral in the form of cash or securities that are obligations of the United States (U.S.) or agencies or instrumentalities of the U.S. in an amount equal to but not less than 100 percent of the market value, from time to time, as determined by the retirement system of the loaned securities.

Requires the comptroller to deposit fees to the credit of the law enforcement and custodial officer supplemental retirement fund.

Includes a law enforcement and custodial officer supplemental retirement fund with the funds to which the comptroller must allocate the court costs.

Provides that if the state contribution to the retirement system is computed using a percentage less than 6.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium.

Provides that if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium.

Provides that a person who becomes eligible for benefits, funds, or account balances payable on the death of a member or annuitant as a result of the designated beneficiary being convicted of or adjudicated as having caused the death of the member or annuitant may select death or survivor benefits as if the person were the designated beneficiary.

Provides conforming language throughout the Government Code applying the same provisions to the deferred compensation plan and ERS regarding the beneficiary causing death of member or annuitant.

Requires ERS to reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity and establishes that the reduced amount is payable to a person entitled to receive the benefit.

Provides that a dependent who is eligible to participate in the group benefits program is the individual's unmarried child younger than 26, rather than 25, years of age.

Strikes the word "retarded" from the provision that "the child is mentally retarded or physically incapacitated."

Establishes that this legislation be construed and administered in a manner considered in compliance with applicable federal law.

Requires the ERS board to develop a plan for providing under any health benefit plan provided under the group benefits program tobacco cessation coverage for participants.

Requires that the tobacco cessation coverage include coverage for prescription drugs that aid participants in ceasing the use of tobacco products.

Requires the board to assess each participant in a health benefit plan who uses one or more tobacco products a tobacco user premium differential, to be paid in monthly installments and to determine the amount of the monthly installments of the premium differential.

Provides that, if the General Appropriations Act for a state fiscal biennium sets the amount of the monthly installments of the tobacco user premium differential for that biennium, the board shall assess the premium differential during that biennium in the amount prescribed by the General Appropriations Act.

Requires the board to assess each employer whose employees participate in the group benefits program an employer enrollment fee in an amount not to exceed a percentage of the employer's total payroll, as determined by the General Appropriations Act.

Requires the board to deposit the enrollment fees to the credit of the employees life, accident, and health insurance and benefits fund.

Provides that a state contribution may not be made for coverages selected by an individual who receives a state contribution for coverage under a group benefits program provided by another state health plan or by an institution of higher education or made for or used to pay an assessed tobacco user premium differential.

Administration of and Benefits Payable by the Teacher Retirement System—S.B. 1667

by Senator Duncan—House Sponsor: Representative Truitt

During a comprehensive review of Teacher Retirement System of Texas (TRS) policies and procedures, the TRS board of trustees (board) and staff held public meetings to consider updates to statutory provisions that would allow TRS to operate more efficiently and clarify statutory references. This bill:

Includes TRS with the noncriminal justice agencies to which a criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure.

Entitles TRS to obtain from the Department of Public Safety of the State of Texas (DPS), the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by department, division, or agency that relates to a person who is an employee or an applicant for employment with TRS; is a consultant, contract employee, independent contractor, intern, or volunteer for TRS; proposes to enter into a contract with or has a contract with TRS to perform services for or supply goods to TRS; or is an employee or subcontractor of a contractor that provides services to TRS.

Prohibits criminal history record information obtained by TRS from being released or disclosed to any person except on court order; with the consent of the person who is the subject of the criminal history record information; or to a federal agency as required by federal law or executive order.

Requires TRS to destroy criminal history record information after the information is used for the authorized purposes.

Authorizes TRS to provide a copy of the criminal history record information obtained from DPS, the FBI Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

Provides that failure or refusal of an employee or applicant to provide on request a complete set of fingerprints; a true and complete name; or other information necessary for a law enforcement entity to obtain criminal history record information constitutes good cause for dismissal or refusal to hire.

Authorizes the TRS board or a board committee to hold an open or closed meeting by telephone conference call if a quorum of the applicable board or board committee is physically present at one location of the meeting.

Establishes that a telephone conference call meeting is subject to the notice requirements applicable to other meetings and that the notice must specify the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present and the intent to have a quorum present at that location.

Requires that the location where a quorum is physically present be open to the public and audible to the public at the location where the quorum is present and be tape-recorded at that location.

Requires that the location of the meeting provide two-way communication during the entire telephone conference call meeting, and that the identification of each party to the telephone conference call be clearly stated before the party speaks.

Authorizes a member of the board to participate remotely by telephone conference call at the location of a board meeting for not more than one board meeting per calendar year.

Provides that the name of an applicant for executive director, chief investment officer, or chief audit executive of TRS is exempted from the requirements of public information in the Government Code, except that the TRS board must give public notice of the names of three finalists being considered for one of those positions at least 21 days before the date of the meeting at which the final action or vote is to be taken on choosing a finalist for employment.

Establishes that a domestic relations order is a qualified domestic relations order only if such order clearly specifies the Social Security number, or an express authorization for the parties to use an alternate method acceptable to the public retirement system to verify the Social Security number, of the member or retiree and each alternate payee covered by the order.

Authorizes a public retirement system to reject a domestic relations order as a qualified domestic relations order unless the order, if required by TRS, conforms to a model order adopted by TRS.

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, as applicable, for the administration of payments under an order that is determined to be qualified and to deduct fees from payments made under the order.

Establishes in all relevant sections of the legislation that an employee of TRS is not prohibited from commenting on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting TRS that are made in accordance with policies adopted by the board.

Requires a member to notify TRS in writing of membership service that has not been properly credited by TRS on an annual statement and to provide verification and make deposits as required by TRS before the service may be credited.

Authorizes TRS to deduct the amount of a person's indebtedness to TRS from an amount payable by the TRS to the person or the person's estate and the distributees of the estate.

Entitles a beneficiary designated 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 is the sole beneficiary of that trust.

Provides that benefits payable on the death of a member or annuitant, except an optional retirement annuity are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons if a beneficiary designation is revoked or a person is not eligible to receive a benefit.

Provides that a benefit payable on the death of a member or annuitant may not be paid to a person who has been convicted of causing that death or who is otherwise ineligible, but instead is payable to a person who would be entitled to the benefit had the convicted or otherwise ineligible person predeceased the decedent.

Establishes that a person is ineligible to receive a benefit payable on the death of a member or annuitant if the person is found not guilty by reason of insanity of causing the death of the member or annuitant or 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.

Provides that for the purpose of computing a death benefit annuity, the board shall extend the tables in the Government Code, as applicable, to ages earlier than indicated in the tables, rather than 55 years, by actuarially reducing the benefit available under the applicable table, rather than at the age of 55, to the actuarial equivalent at the attained age of the member.

Provides that if only two persons are nominated for a position on the board, the governor shall appoint a member of the board to the applicable trustee position from the slate of two nominated persons; if only one person is nominated, the governor shall appoint that person to the applicable trustee position; and if no member or retiree is nominated, the governor shall appoint to the applicable trustee position a person who otherwise meets the qualifications required for the position.

Requires the board to annually evaluate the performance of the actuary during the previous year and to, at least once every four, rather than three years, redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

Replaces the term "employing district" with "employer" relating to interest on contributions and fees and deposits in trust.

Authorizes TRS to release records of a participant to the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary, or if an executor or administrator of the deceased participant's estate has not been named, a person or entity who the executive director determines is acting in the interest of the deceased participant's estate, or an heir, legatee, or devisee of the deceased participant.

Requires TRS, at least annually, to acquire and maintain records identifying members and the types of positions they hold as members.

Replaces the phrase "is mentally retarded" with "has a mental disability" and replaces the term "district(s)" with "public school(s)."

Purchase of Service Credit in the Teacher Retirement System—S.B. 1668

by Senator Duncan—House Sponsor: Representative Truitt

During several public meetings, the TRS board of trustees (board) and staff reviewed the different types of service credit that TRS members could purchase and found that the costs of various types of service credits were unequal and that some types of TRS members' service credits were subsidized by other members. This bill:

Replaces "reemployed veteran's" credit with "Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)" credit.

Strikes language that states that a person may establish credit by depositing with TRS for each year of service claimed an amount equal to a fee of five percent, compounded annually, of the required contribution from the date of the person's first eligibility to establish the credit to the date of deposit.

Provides that to the extent required by USERRA and permitted by the Internal Revenue Code, TRS may grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with TRS if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period of active duty for the purpose of determining whether the person meets the length-of-service eligibility requirements for retirement or other benefits administered by TRS as if the person had established the credit.

Provides that a member eligible to establish credit is one who has at least five years of service credit in TRS for actual service in public schools, including at least one year completed after the relevant out-of-state service.

Provides that a member eligible to establish credit is one who has at least five years of service credited in TRS before the development leave occurs; has at the time the required deposits for the credit are paid, at least one year of membership service credit in TRS following the development leave; and has at least five years of service credited in TRS at the time the required deposits for the credit are paid.

Requires that the notice of intent to take developmental leave and the certification be in the form required by TRS and establishes that leave is not creditable in TRS if the member does not submit notice of intent and obtain required certification.

Allows a member to establish credit by depositing with TRS for each year of developmental leave certified the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit, based on rates and tables recommended by the TRS's actuary and adopted by the board of trustees.

Prohibits TRS, if deductions were previously required but not paid, from providing benefits based on the service or compensation unless the required deposits have been fully paid.

Requires that the person's employer at the time the unreported service was rendered or compensation was paid verify the service or compensation and requires the person to submit the verification to TRS not later than five years after the end of the school year in which the service was rendered or compensation was paid.

Requires the person, to establish the service or compensation credit, to deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit based on rates and tables recommended by TRS's actuary and adopted by the board of trustees.

Establishes that a person who does not obtain required proof of service may not establish the service or compensation credit.

Resumption of Service by Retirees Under the Teacher Retirement System—S.B. 1669

by Senator Duncan—House Sponsor: Representative Truitt

Although the statutes generally allow a retiree with TRS to return to work in a full-time position in Texas public education for up to six months per school year without losing annuity payments, there are numerous other return-to-work policies also in place that result in some confusion for retirees. This bill:

Prohibits TRS from withholding a monthly benefit payment if the 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.

First Called Special Session

Operation of the Texas Windstorm Insurance Association—H.B. 3

by Representative Smithee—Senate Sponsor: Senator Carona

Several issues have been raised regarding the state wind and hail insurance provider of last resort, the Texas Windstorm Insurance Association (TWIA). TWIA is a quasi-governmental agency that writes insurance in 14 coastal counties and parts of Harris County. Issues that arose as a result of the Hurricanes Ike and Dolly in 2008 revealed procedural flaws in the governing statute, including internal processes for claims handling and general governance of the organization. There were also thousands of "slab claims," which involve claims where only a foundation remained after the storms. From these claims, questions were raised about coverage for losses from wind versus water, and whether TWIA ultimately overpaid insured persons for damage that may have been caused by water damage, which is not covered under TWIA policies. This bill:

Provides that Section 541.152(b) (authorizing the trier of fact to, on a finding by the trier of fact that the defendant knowingly committed the act complained of, award an amount not to exceed three times the amount of actual damages), Insurance Code, does not apply to an action brought against TWIA.

Requires TWIA to be reviewed during the period in which state agencies abolished in 2015 are reviewed.

Requires the commissioner of insurance (commissioner) to adopt rules to implement sections of this bill.

Provides that a "catastrophe year" means a calendar year in which an occurrence or a series of occurrences results in insured losses, regardless of when the insured losses are ultimately paid.

Provides that in an action brought by the commissioner against TWIA under Chapter 441 (Supervision and Conservatorship), Insurance Code, TWIA's inability to satisfy obligations related to the issuance of public securities constitutes a condition that makes TWIA's continuation in business hazardous to the public or to TWIA's policyholders; the time for TWIA to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against TWIA; and unless the commissioner takes further action against TWIA under Chapter 441, as a condition of release from supervision, TWIA must demonstrate to the satisfaction of the commissioner that TWIA is able to satisfy obligations related to the issuance of public securities.

Requires the presiding officer, as defined by this bill, if a person insured under Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code, is assigned to act as presiding officer to preside over or resolve a dispute involving TWIA and another person insured under Chapter 2210, not later than the seventh day after the date of assignment, to give written notice to TWIA and to each other party to the dispute, or TWIA's or other party's attorney, that the presiding officer is insured under Chapter 2210.

Prohibits a member of the board of directors of TWIA (board) or an employee of TWIA from:

- accepting or soliciting any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of duties related to the operation or business of TWIA or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's conduct related to the operation or business of TWIA;
- accepting other employment or engage in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the member's or employee's position with TWIA;
- accepting other employment or compensation that could reasonably be expected to impair the member's or

employee's independence of judgment in the performance of the member's or employee's duties related to the operation or business of TWIA;

- making personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the interest of TWIA; or
- intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for having exercised the member's or employee's powers related to the operation or business of TWIA or having performed, in favor of another, the member's or employee's duties related to the operation or business of TWIA.

Provides that a TWIA employee who violates sections of this bill is subject to an employment-related sanction, including termination of the employee's employment with TWIA.

Provides that a member of the board of directors or a TWIA employee who violates sections of this bill is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

Prohibits a member of the board of directors or an employee of TWIA from appointing or employing, or contracting with, certain individuals for the provision of goods or services in connection with the operation or business of TWIA, if the individual to be appointed or employed, or with whom a contract is to be entered into, is to be directly or indirectly compensated from funds of TWIA.

Prohibits a person from bringing a private action against TWIA, including a claim against an agent or representative of TWIA, under Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices) or Chapter 542 (Processing and Settlement of Claims), Insurance Code.

Provides that Chapter 542 does not apply to the processing and settlement of claims by TWIA.

Authorizes, notwithstanding any other provision of the Insurance Code or Chapter 2210, a class action under Subchapter F (Class Actions by Attorney General or Private Individuals), Chapter 541, or under Rule 42, Texas Rules of Civil Procedure, to only be brought against TWIA by the attorney general at the request of the Texas Department of Insurance (TDI).

Authorizes TDI to develop programs to improve the efficient operation of TWIA, including a program for approving policy forms and a program designed to create incentives for insurers to write windstorm and hail insurance voluntarily to cover property located in a catastrophe area, especially property located on the barrier islands of this state.

Prohibits TWIA from being considered a debtor authorized to file a petition or seek relief in bankruptcy under Title 11, United States Code.

Provides that on dissolution of TWIA, all assets of TWIA, other than assets pledged for the repayment of public securities issued, revert to this state.

Provides that TWIA is subject to audit by the state auditor and requires TWIA to pay the costs incurred by the state auditor in performing an audit.

Requires the commissioner, in the manner and at the time the commissioner determines to be necessary, to conduct a random audit of claim files concerning claims the bases of which are damage to insured property caused by a particular storm to determine whether TWIA is adequately and properly documenting claims decisions in each claim file; and ensure that each claim is being handled appropriately, including being handled in accordance with the terms of the policy under which the claim is filed.

Requires TDI to conduct an audit required as soon as possible to ensure the quality of the process with which TWIA is handling claims.

Requires the commissioner, if, following an audit conducted, the commissioner determines that TWIA is not adequately and properly documenting claims decisions or that claims are not otherwise being handled appropriately, to notify the board of directors of that determination; and identify the manner in which TWIA should correct any deficiencies identified by the commissioner and issue an order to that effect.

Requires TWIA to post on TWIA's Internet website any compensation, monetary or otherwise, and any bonus that, when aggregated, exceed \$100,000 in a calendar year and that are paid or given by TWIA to a vendor or independent contractor with whom TWIA has a contract; or a TWIA employee.

Requires losses in excess of premium and other revenue of TWIA not paid from available reserves of the association and available amounts in the catastrophe reserve trust fund to be paid from the proceeds from public securities issued in accordance with Subchapter B-1 and Subchapter M (Public Securities Program) and, notwithstanding the provision above, authorizes losses to be paid from the proceeds of public securities before an occurrence or series of occurrences that results in insured losses.

Requires that Class 1 public securities be repaid within a period not to exceed 14 years, and authorizes such public securities to be repaid sooner if the board of directors elects to do so and the commissioner approves.

Provides that Class 1 public securities that are issued before an occurrence or series of occurrences that results in incurred losses are authorized to be issued on the request of the board of directors with the approval of the commissioner; and are prohibited from, in the aggregate, exceeding \$1 billion at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

Provides that Class 1 public securities are required to be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and subject to the \$1 billion maximum, are authorized to be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

Requires that the proceeds of any outstanding Class 1 public securities that are issued before an occurrence or series of occurrences be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used.

Provides that this bill does not prohibit TWIA from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

Requires proceeds, if those proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, to count against the \$1 billion limit on Class 1 public securities in the catastrophe year in which the proceeds must be depleted.

Authorizes Class 2 public securities to be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and subject to the \$1 billion maximum, to be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

Authorizes Class 3 public securities to be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and subject to the \$500 million maximum, to be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

Requires TWIA, except for an emergency meeting, to notify TDI not later than the 11th day before the date of a meeting of the board of directors or of the members of TWIA; and not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on TWIA's Internet website and TDI's Internet website.

Authorizes the commissioner or the commissioner's designated representative to attend a meeting of the board of directors or the members of TWIA, including a closed meeting authorized by the Government Code, except for those portions of a closed meeting that involve the rendition of legal advice to the board concerning a regulatory matter or that would constitute an *ex parte* communication with the commissioner.

Requires TWIA to broadcast live on TWIA's Internet website all meetings of the board of directors, other than closed meetings; and maintain on TWIA's Internet website an archive of meetings of the board of directors.

Provides that the primary objectives of the board of directors are to ensure that the board and TWIA operate in accordance with Chapter 2210, the plan of operation, and commissioner rules; comply with sound insurance principles; meet all standards imposed under Chapter 2210; establish a code of conduct and performance standards for association employees and persons with which TWIA contracts; and establish, and adhere to terms of, an annual evaluation of association management necessary to achieve the statutory purpose, board objectives, and any performance or enterprise risk management objectives established by the board.

Requires the general manager of TWIA (general manager), every two months, to submit to the board a report evaluating the extent to which TWIA met the objectives in the two-month period immediately preceding the date of the report.

Requires TWIA, not later than June 1 of each year, to submit to the commissioner, the legislative oversight board, the governor, the lieutenant governor, and the speaker of the house of representatives a report evaluating the extent to which the board met the objectives in the 12-month period immediately preceding the date of the report.

Provides that, except as specifically provided by Chapter 2210 or another law, TWIA is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Provides that a settlement agreement to which TWIA is a party is public information and is not exempted from required disclosure under Chapter 552, Government Code; and if applicable, must contain the name of any attorney or adjuster representing a claimant or TWIA in connection with the claim that is the basis of the settlement.

Requires the plan of operation to require TWIA to use the claim settlement guidelines published by the commissioner in evaluating the extent to which a loss to insured property is incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges.

Provides that, notwithstanding other provisions, evidence of one declination every three calendar years is also required with an application for renewal of a TWIA policy.

Requires a property and casualty agent to submit an application for initial insurance coverage on behalf of the applicant on forms prescribed by TWIA and requires TWIA to develop a simplified renewal process that allows for the acceptance of an application for renewal coverage, and payment of premiums, from a property and casualty agent or a person insured under Chapter 2210.

Requires the commissioner, after receiving a recommendation from the board of directors, 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 the commission structure adopted by the commissioner to be fair and reasonable, taking into consideration the amount of work performed by an agent in submitting an application to TWIA and the prevailing commission structure in the private windstorm market.

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 contain, in boldface type, a conspicuous notice concerning the resolution of disputes under the policy, including the processes and deadlines for appraisal and alternative dispute resolution, the binding effect of appraisal, and the necessity of complying with the requirements to seek relief, including judicial relief.

Authorizes the commissioner, on a showing of good cause by a person insured under Chapter 2210, to extend the one-year period described above for a period not to exceed 180 days.

Prohibits TWIA from issuing coverage for a wind turbine regardless of whether the turbine could otherwise be considered insurable property under Chapter 2210.

Provides that the decision whether to issue a certificate of compliance for a structure is wholly within the discretion of TDI and is not dependent on the actions of the Texas Board of Professional Engineers or any other regulatory agency.

Provides that TDI has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of Chapter 221 and to the physical inspection of structures for the purposes of Chapter 2210, including the submission of documents to TDI or association regarding the physical inspection of structures.

Requires the commissioner by rule to establish criteria to ensure that a person seeking appointment as a qualified inspector, including an engineer seeking appointment as an inspector, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under Chapter 2210 and to comply with other requirements of Chapter 2210.

Authorizes the commissioner *ex parte*, in addition to any other action authorized, to enter an emergency cease and desist order against a qualified inspector, or a person acting as a qualified inspector, if the commissioner believes that the qualified inspector has through submitting or failing to submit to TDI sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of Chapter 2210 and TDI rules; or refused to comply with requirements imposed under Chapter 2210 or TDI rules; or the person acting as a qualified inspector is acting without appointment as a qualified inspector; and the commissioner determines that the conduct is fraudulent or hazardous or creates an immediate danger to the public.

Authorizes the commissioner by rule to provide for a discount of, or a credit against, a surcharge assessed in instances in which a policyholder demonstrates that the noncompliant structure was constructed with at least one structural building component that complies with the building code standards set forth in the plan of operation.

Authorizes a person who has an insurable interest in a residential structure, on and after August 31, 2011, to obtain insurance coverage through TWIA for that structure without obtaining a certificate of compliance and rules adopted by the commissioner.

Authorizes TDI to issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been inspected by a TDI inspector or by a qualified inspector; and determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

Requires TWIA to develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained.

Requires that, among other things, payment of public security obligations for Class 1 public securities issued under Chapter 2210, including the additional amount of any debt service coverage determined by TWIA to be required for the issuance of marketable public securities, be considered in adopting rates under Chapter 2210.

Authorizes TWIA to offer a person insured under Chapter 2210 an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, if the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or the person elects to purchase a binding arbitration endorsement.

Prohibits a premium discount or a credit against a surcharge from exceeding 10 percent of the premium for the policy, before the application of the discount.

Requires the board, if TWIA does not purchase reinsurance, not later than June 1 of each year, to submit to the commissioner, the legislative oversight board, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more.

Requires the board, not later than June 1 of each year, to submit to the commissioner, the legislative oversight board, the governor, the lieutenant governor, and the speaker of the house of representatives a catastrophe plan covering the period beginning on the date the plan is submitted and ending on the following May 31.

Adds Subchapter L-1 (Claims: Settlement and Dispute Resolution), Chapter 2210, Insurance Code, and provides that Subchapter L-1 provides the exclusive remedies for a claim against TWIA, including an agent or representative of TWIA.

Provides that Section 2210.551 (Appeals) does not apply to a person who is required to resolve a dispute under Subchapter L-1, or a person insured under Chapter 2210 who has elected to purchase a binding arbitration endorsement offered by TWIA.

Authorizes a person insured under Chapter 2210 to elect to purchase a binding arbitration endorsement in a form prescribed by the commissioner.

Requires a person who elects to purchase an endorsement to arbitrate a dispute involving an act, ruling, or decision of TWIA relating to the payment of, the amount of, or the denial of the claim.

Requires an arbitration to be conducted in the manner and under rules and deadlines prescribed by the commissioner by rule.

Prohibits TWIA, subject to certain sections of this bill, from being held liable for any amount other than covered losses payable under the terms of TWIA policy.

Prohibits TWIA, and an agent or representative of TWIA, from being held liable for damages under Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, or, except as otherwise specifically provided by Chapter 2210, under any provision of any law providing for additional damages, punitive damages, or a penalty.

Requires an insured, subject to sections of this bill, to file a claim under a TWIA policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

Authorizes TWIA, if the claimant fails to submit information in the claimant's possession that is necessary for TWIA to determine whether to accept or reject a claim, not later than the 30th day after the date the claim is filed, to request in writing the necessary information from the claimant.

Requires TWIA, not later than the later of the 60th day after the date TWIA receives a claim or the 60th day after the date TWIA receives information, unless the applicable 60-day period is extended by the commissioner, to provide the claimant, in writing, notification that TWIA has accepted coverage for the claim in full; TWIA has accepted coverage for the claim in part and has denied coverage for the claim in part; or TWIA has denied coverage for the claim in full.

Requires TWIA, if TWIA notifies a claimant that TWIA has accepted coverage for a claim in full or has accepted coverage for a claim in part, to pay the accepted claim or accepted portion of the claim not later than the 10th day after the date notice is made.

Requires TWIA, if payment of the accepted claim or accepted portion of the claim is conditioned on the performance of an act by the claimant, to pay the claim not later than the 10th day after the date the act is performed.

Authorizes the claimant, if TWIA accepts coverage for a claim in full and a claimant disputes only the amount of loss TWIA will pay for the claim, or if TWIA accepts coverage for a claim in part and a claimant disputes the amount of loss TWIA will pay for the accepted portion of the claim, to request from TWIA a detailed summary of the manner in which TWIA determined the amount of loss TWIA will pay.

Authorizes the claimant, if a claimant disputes the amount of loss TWIA will pay for a claim or a portion of a claim, not later than the 60th day after the date the claimant receives the notice, to demand appraisal in accordance with the terms of TWIA policy.

Authorizes TWIA, if a claimant, on a showing of good cause and not later than the 15th day after the expiration of the 60-day period, requests in writing that the 60-day period be extended, to grant an additional 30-day period in which the claimant may demand appraisal.

Provides that if a claimant demands appraisal and the appraiser retained by the claimant and the appraiser retained by TWIA are able to agree on an appraisal umpire to participate in the resolution of the dispute, the appraisal umpire is the umpire chosen by the two appraisers.

Requires the commissioner, if the appraiser retained by the claimant and the appraiser retained by TWIA are unable to agree on an appraisal umpire to participate in the resolution of the dispute, to select an appraisal umpire from a roster of qualified umpires maintained by TDI.

Authorizes TDI to require appraisers to register with TDI as a condition of being placed on the roster of umpires; and to charge a reasonable registration fee to defray the cost incurred by TDI in maintaining the roster and the commissioner in selecting an appraisal umpire.

Provides that the appraisal decision is binding on the claimant and TWIA as to the amount of loss TWIA will pay for a fully accepted claim or the accepted portion of a partially accepted claim and is not appealable or otherwise reviewable and that a claimant that does not demand appraisal before the expiration of the periods waives the

claimant's right to contest TWIA's determination of the amount of loss TWIA will pay with reference to a fully accepted claim or the accepted portion of a partially accepted claim.

Authorizes a claimant or TWIA to, not later than the second anniversary of the date of an appraisal decision, file an action in a district court in the county in which the loss that is the subject of the appraisal occurred to vacate the appraisal decision and begin a new appraisal process if the appraisal decision was obtained by corruption, fraud, or other undue means; the rights of the claimant or TWIA were prejudiced by evident partiality by an appraisal umpire, corruption in an appraiser or appraisal umpire, or misconduct or wilful misbehavior of an appraiser or appraisal umpire; or an appraiser or appraisal umpire exceeded the appraiser's or appraisal umpire's powers, refused to postpone the appraisal after a showing of sufficient cause for the postponement, refused to consider evidence material to the claim, or conducted the appraisal in a manner that substantially prejudiced the rights of the claimant or TWIA.

Prohibits a claimant, except as otherwise provided, from bringing an action against TWIA with reference to a claim for which TWIA has accepted coverage in full.

Requires a claimant, if TWIA denies coverage for a claim in part or in full and the claimant disputes that determination, to, not later than the expiration of the limitations period, but after the date the claimant receives the notice, to provide TWIA with notice that the claimant intends to bring an action against TWIA concerning the partial or full denial of the claim.

Authorizes TWIA, if a claimant provides notice of intent to bring an action, to require the claimant, as a prerequisite to filing the action against TWIA, to submit the dispute to alternative dispute resolution by mediation or moderated settlement conference, as provided by the Civil Practice and Remedies Code.

Provides that a claimant who does not provide notice of intent to bring an action before the expiration of the period waives the claimant's right to contest TWIA's partial or full denial of coverage and is barred from bringing an action against TWIA concerning the denial of coverage.

Requires TWIA to request alternative dispute resolution of a dispute not later than the 60th day after the date TWIA receives from the claimant notice of intent to bring an action.

Requires alternative dispute resolution to be completed not later than the 60th day after the date a request for alternative dispute resolution is made and authorizes the 60-day period to be extended by the commissioner by rule or by TWIA and a claimant by mutual consent.

Authorizes the claimant, if the claimant is not satisfied after completion of alternative dispute resolution, or if alternative dispute resolution is not completed before the expiration of the 60-day period or any extension, to bring an action against TWIA in a district court in the county in which the loss that is the subject of the coverage denial occurred.

Requires that an action brought under this bill be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161 (Judicial Panel on Multidistrict Litigation), Government Code.

Requires a judge appointed to be an active judge who is a resident of the county in which the loss that is the basis of the disputed denied coverage occurred or of a first tier coastal county or a second tier coastal county adjacent to the county in which that loss occurred.

Requires the court, if a claimant brings an action against TWIA concerning a partial or full denial of coverage, to abate the action until the notice of intent to bring an action has been provided and, if requested by TWIA, the dispute has been submitted to alternative dispute resolution.

Authorizes a moderated settlement conference to be conducted by a panel consisting of one or more impartial third parties.

Provides that, if TWIA requests mediation, the claimant and TWIA are responsible in equal shares for paying any costs incurred or charged in connection with the mediation.

Provides that, if TWIA requests mediation, and the claimant and TWIA are able to agree on a mediator, the mediator is the mediator agreed to by the claimant and TWIA.

Requires the commissioner, if the claimant and TWIA are unable to agree on a mediator, to select a mediator from a roster of qualified mediators maintained by TDI.

Authorizes TDI to require mediators to register with TDI as a condition of being placed on the roster; and charge a reasonable registration fee to defray the cost incurred by TDI in maintaining the roster and the commissioner in selecting a mediator.

Provides that the only issues a claimant is authorized to raise in an action brought against TWIA relating to disputes concerning denied coverage are whether TWIA's denial of coverage was proper; and the amount of the damages to which the claimant is entitled, if any.

Authorizes a claimant that brings an action against TWIA relating to disputes concerning denied coverage, except as otherwise provided, to recover only the covered loss payable under the terms of TWIA policy less, if applicable, the amount of loss already paid by TWIA for any portion of a covered loss for which TWIA accepted coverage; prejudgment interest from the first day after the date specified by which TWIA was or would have been required to pay an accepted claim or the accepted portion of a claim, at the prejudgment interest rate provided in Subchapter B (Prejudgment Interest in Wrongful, Personal Injury, or Property Damage), Chapter 304 (Judgment Interest), Finance Code; and court costs and reasonable and necessary attorney's fees.

Provides that nothing in Chapter 2210 may be construed to limit the consequential damages, or the amount of consequential damages, that a claimant is authorized to recover under common law in an action against TWIA.

Authorizes a claimant who brings an action against TWIA relating to disputes concerning denied coverage to, in addition to the covered loss and any consequential damages recovered by the claimant under common law, recover damages in an amount not to exceed the aggregated amount of the covered loss and the consequential damages recovered under common law if the claimant proves by clear and convincing evidence that TWIA mishandled the claimant's claim to the claimant's detriment.

Requires a claimant who brings an action against TWIA relating to disputes concerning denied coverage to, notwithstanding any other law, bring the action not later than the second anniversary of the date on which the person receives a notice.

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 rising waters not caused by waves or surges and requires that the panel consist of a number of experts to be decided by the commissioner.

Prohibits TWIA, notwithstanding any other law, from bringing an action against a claimant, for declaratory or other relief, before the 180th day after the date an appraisal or alternate dispute resolution, is completed.

Authorizes the commissioner, on a showing of good cause, to by rule extend any deadline established under Subchapter L-1 but prohibits the extension of deadlines, with reference to claims filed during a particular catastrophe year, from exceeding 120 days in the aggregate.

Provides that "good cause" includes military deployment.

Requires TDI to establish an ombudsman program to provide information and educational programs to assist persons insured under Chapter 2210 with the claim processes under Chapter 2210.

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.

Authorizes the principal amount determined by TWIA to be increased to include an amount sufficient to, among other things, provide the amount of debt service coverage for public securities determined by TWIA, in consultation with the authority, to be required for the issuance of marketable public securities.

Authorizes TWIA to use public security proceeds to, among other things, pay private financial agreements entered into by TWIA as temporary sources of payment of losses and operating expenses of TWIA; and reimburse TWIA for any cost described by this bill paid by TWIA before issuance of the public securities.

Prohibits the proceeds from public securities issued before an occurrence or series of occurrences that results in incurred losses, including investment income, notwithstanding other sections of Chapter 2210, from being used to purchase reinsurance for TWIA.

Requires the Texas Public Finance Authority (authority), if any public securities issued under Chapter 2210 are outstanding, to notify TWIA of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by TWIA, to permit TWIA to determine the availability of funds, assess members of TWIA, and assess a premium surcharge if necessary.

Requires TWIA to deposit all revenue collected under Section 2210.612 (Payment of Class 1 Public Securities) in the public security obligation revenue fund, all revenue collected under Section 2210.613(b) (relating to seventy percent of the cost of the public securities required to be paid by a premium surcharge) in the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) (relating to Class 2 public securities) and 2210.6135 (Payment of Class 3 Public Securities) in the member assessment trust fund.

Requires each insurer, TWIA, and the Texas FAIR Plan Association, on approval by the commissioner, to assess, as provided by this bill, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities.

Requires that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds or member assessments and all related expenses on the public securities.

Requires the premium surcharge to be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area.

Requires the premium surcharge to be assessed on each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area.

Provides that a premium surcharge applies to all policies written under certain lines of insurance, including fire and allied lines, farm and ranch owners, residential property insurance, private passenger automobile liability and physical damage insurance, and commercial automobile liability and physical damage insurance; and the property insurance portion of a commercial multiple peril insurance policy.

Requires TWIA, for the payment of the losses, to assess the members of TWIA a principal amount not to exceed \$500 million per catastrophe year.

Authorizes the commissioner to, notwithstanding any other provision of Chapter 2210 and subject to other provisions, on a finding by the commissioner that all or any portion of the total principal amount of Class 1 public securities authorized to be issued cannot be issued, by rule or order, to cause the issuance of Class 2 public securities in a principal amount not to exceed the principal amount described by this bill.

Sets forth provisions for the manner in which the commissioner is required to order the repayment of the cost of Class 2 public securities.

Provides that the state pledges for the benefit and protection of financing parties, the board, and TWIA that the state will not take or permit any action that would impair the collection of member assessments and premium surcharges or the deposit of those funds into the member assessment trust fund or premium surcharge trust fund; reduce, alter, or impair the member assessments or premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related public securities, have been paid and performed in full; or in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

Provides that if public securities issued are outstanding, the rights and interests of TWIA, a successor to TWIA, any member of TWIA, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge or a member assessment, are only contract rights until those revenues are first pledged for the repayment of TWIA's public security obligations.

Authorizes a policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer that issues windstorm and hail insurance in the catastrophe area or adopted by TDI for use by such an insurer, notwithstanding Section 16.070 (Contractual Limitations Period), Civil Practice and Remedies Code, and for the purpose described by this bill, to provide for a contractual limitations period for filing suit on a first-party claim under the policy.

Prohibits the contractual limitations period from ending before the earlier of two years from the date the insurer accepts or rejects the claim; or three years from the date of the loss that is the subject of the claim.

Authorizes a policy or endorsement to also contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim and requires a provision to include a provision allowing the filing of claims after the first anniversary of the date of the loss for good cause shown by the person filing the claim.

Provides that a contractual provision contrary to provisions of this bill is void.

Requires the Texas Board of Professional Engineers (TBPE) to review the plan of operation and the windstorm certification standards; and in consultation with TDI, adopt rules establishing criteria for determining whether an engineer possesses the knowledge, understanding, and professional competence to be qualified to provide engineering design services related to compliance with applicable windstorm certification standards Chapter 2210.

Requires TBPE to prepare and publish a roster of engineers who satisfy the criteria and to make the roster available to the public without cost in an online computer database format.

Requires TBPE to, in consultation with TDI, adopt rules requiring an engineer who is providing engineering design services to comply with windstorm certification standards.

Repeals Sections 2210.551(e) (relating to requiring a hearing on an act to be held at the request of the claimant, in the county in which the insured property is located or in Travis County), and 2210.552 (Claim Disputes; Venue), Insurance Code.

Requires a legislative interim study committee to conduct a study of alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity, and sets forth provisions for the composition and requirements of the interim study committee.

Requires TDI and TWIA to jointly study whether TWIA's using a single adjuster program would improve the effectiveness and efficiency with which TWIA receives, processes, settles, and pays claims filed under insurance policies issued by TWIA under Chapter 2210, Insurance Code.

Requires the commissioner of insurance to study the feasibility of TWIA writing policies directly and the impact TWIA writing policies directly would have on rates for policies issued by TWIA and requires the commissioner to submit the finding of the study conducted to the board of directors of TWIA.

Operation, Administration of, and Practice and Procedures in the Judicial Branch—H.B. 79

by Representatives Lewis and Jim Jackson—Senate Sponsor: Senator Duncan

H.B. 79 is an omnibus courts bill that clarifies and simplifies the existing court system. This bill:

Authorizes an appeal from a final judgment of a county court, statutory county court, statutory probate court, or district court in an eviction suit.

Sets forth the procedure when a district judge recuses himself or herself.

Authorizes district judges in a county with two or more district courts to transfer civil or criminal cases or proceedings to another district court in the county and take certain other actions regarding cases or proceedings pending in another district court in the county

Provides that a district court has original jurisdiction of a civil matter in which the amount in controversy is more than \$500.

Provides for uniform terms in the district courts.

Provides that when a case is transferred from one court to another:

- all processes, writs, bonds, recognizances, and other obligations issued by the transferring court are returnable to the court to which the case is transferred; and
- the obligees in all bonds and recognizances and all witnesses summoned to appear in a district court are required to appear before the court to which the case is transferred

Authorizes the district judges in a county with two or more district courts to adopt rules governing the filing and numbering of cases, the assignment of cases, and the distribution of the caseload.

Provides that all district judges in a county are entitled to equal amounts of supplemental compensation.

Sets out certain procedures regarding the creation of a new judicial district, including the initial appointment of the district judge and the transfer of cases.

Requires a district court to sit in the county seat for a jury trial in a civil case.

Authorizes the commissioners court of the county to authorize a district court to sit in any municipality within the county to hear and determine certain matters.

Defines "criminal law cases and proceedings," "family law cases and proceedings," "juvenile law cases and proceedings," and "mental health cases and proceedings."

Sets county court at law (CCL) maximum civil jurisdiction at \$200,000.

Grandfathers current CCLs whose civil jurisdiction exceeds \$200,000.

Directs the Office of Court Administration to study the district courts and statutory county courts of this state with overlapping jurisdiction in civil cases in which the amount in controversy of more than \$200,000 and determine the feasibility, efficiency, and potential cost of converting those statutory county courts to district courts.

Imposes standard policies and practices in CCLs.

Imposes certain qualifications and standards for judges of CCLs.

Sets out the qualifications for judges of statutory probate courts, prohibits such judges from engaging in private practice, and sets out the terms of such courts.

Provides that a Harris County county criminal court at law has concurrent jurisdiction with Harris County civil statutory county courts to hear certain appeals regarding driver's licenses.

Creates County Court at Law No. 3 of Webb County.

Reorganizes various administrative provisions generally applicable to all district courts.

Eliminates small claims courts and places jurisdiction of small claims with justices of the peace.

Requires the Texas Supreme Court to adopt rules regarding small claims.

Requires justices of the peace to adopt local rules of administration and complete certain training.

Limits the appointment of subordinate judicial officers to specific categories of associate judges (AJs).

Creates uniform provisions for powers and authority, permissible judicial action, procedures for de novo review, and right of appeal regarding such AJs.

Establishes uniform provisions on appointment, termination, compensation, qualifications, method or order of referral, and judicial immunity of AJs.

Provides a mechanism for courts to receive additional resources paid for by the state for certain cases to ensure efficient judicial management

Creates programs for grant funding for court system enhancements and child protection cases.

Provides for extended court jurisdiction and oversight over certain young adults in the foster care system after such persons' 18th birthday.

Statutory Adjustments Regarding State Fiscal Matters—S.B. 1

by Senator Duncan et al.—House Sponsor: Representative Pitts

As the sole administrator of the treasury and the state's many financial resources, the Office of the Comptroller of Public Accounts (comptroller) relies on statutory authority and rulemaking power to manage those resources. As the dynamics of financial markets and economic systems continue to evolve, the tools available to the comptroller often require adjustment to maximize the effectiveness of the agency's resource control. Being the sole administrator of the state's financial resources also places the comptroller in the unique position of working in concert with other state governmental entities that rely on the comptroller's expertise to adequately provide necessary financial support. Adjustments in various portions of the Texas statutes to facilitate the administration of the state's financial resources are sometimes required. This bill:

Requires that the Foundation School Program's (FSP) August 2013 payments to school districts be deferred to September 2013. Adjusts school district and charter school payments to the available appropriation levels contained in the General Appropriations Act for the 2012-2013 biennium. Provides that it is the intent of the legislature, between fiscal year 2014 and fiscal year 2018, to continue to reduce the amount of additional state aid for tax reduction to which a school district is entitled under Section 42.2516 (Additional State Aid for Tax Reduction), Education Code, and to increase the basic allotment to which a school district is entitled under Section 42.101 (Basic Allotment), Education Code. Adjusts the method by which the commissioner of education prorates FSP payments to school districts should the amount appropriated to FSP for the second year of a 2012-2013 biennium be less than that to which the school district was entitled for that year.

Requires a person, to be eligible for a educational aide tuition exemption, to meet certain criteria, including being enrolled at the institution of higher education granting the exemption in courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at public schools in this state.

Provides that the Texas Guaranteed Student Loan Corporation (TGSLC board) is governed by a board of nine directors. Requires the governor, with the advice and consent of the senate, to appoint four members who must have knowledge of or experience in finance, including management of funds or business operations; one member who must be a student enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and four members who must be members the faculty or administration of a postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965, as amended, to the TGSLC board.

Requires the commissioner of the General Land Office to transmit all payments received by Texas A&M University System, Texas State University System, Texas Tech University, and Texas A&M Kingsville for income from investment of the special mineral investment fund, royalties, leases and all other payments directly to their governing boards.

Provides that the Correctional Managed Health Care Committee (CMHCC) will consist of five voting members and one non-voting member. Reduces the term length of CMHCC public committee members appointed by the governor from six years to four, with the remaining members continuing to serve at the will of the appointing official. Sets forth the duties of the Texas Department of Criminal Justice and CMHCC regarding the monitoring and operation of the correctional managed health care system.

Adjusts certain tax collection procedures for sales taxes, property taxes, alcohol and tobacco taxes, and motor fuels taxes for the 2012-2013 biennium and provides penalties for non-compliance. Authorizes franchise tax credits that existed prior to the franchise tax being remade into a tax on a business' margins in 2006 to carry forward until 2016. Provides that the franchise tax exemption for small businesses with less than one million dollars in revenue be extended through the 2012-2013 biennium.

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

Creates the Texas Back to Work Program within the Texas Workforce Commission (TWC). Provides that the purpose of the program is to establish public-private partnerships with employers to transition residents of this state from receiving unemployment compensation to becoming employed as members of the workforce. Authorizes the governor, during the state fiscal biennium that begins on September 1, 2011, to transfer money from the Texas Enterprise Fund to TWC to fund the Texas Back to Work Program established under Chapter 313 (Texas Back to Work Program), Labor Code.

Establishes the Texas Homeless Housing and Services Program within the Texas Department of Housing and Community Affairs (TDHCA). Authorizes the Texas Enterprise Fund to be used for the Texas Homeless Housing and Services Program within TDHCA.

Requires that certain taxpayers maintain tax records and keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either for at least four years.

Establishes certain fees, fee increases, and revenue adjustments related to general government, the judiciary, insurance, and natural resources-related entities.

Contingent Appropriations for the 2012-2013 Biennium—S.B. 2

by Senator Ogden—House Sponsor: Representative Pitts

Appropriations of money contingent upon the passage of legislation are necessary to fund state government for the period beginning September 1, 2011, and ending August 31, 2013. Legislation is required to authorize such contingent appropriations and provide for certain guidance on the allocation and expenditure of those appropriations. This bill:

Authorizes certain appropriations, contingent upon the passage of legislation during the 82nd Legislature, 1st Called Session, 2011, to various state agencies totaling \$29.46 billion for the 2012-2013 biennium.

Composition of Texas Congressional Districts—S.B. 4

by Senator Seliger—House Sponsor: Representative Solomons

The Texas Legislature is required to redistrict Texas congressional districts following publication of the United States decennial census. The United States Supreme Court has ruled that under the Equal Protection Clause of the 14th Amendment of the United States Constitution, these districts must be substantially equal in population. This is sometimes referred to as the one-person, one-vote principle. Based on the 2010 federal census, the total population of Texas is 25,145,561, and the ideal population of a Texas congressional district is 698,488. This bill:

Sets forth the composition of the districts for the election of members of the Texas congressional delegation.

A map setting forth the districts designated under S.B. 4 may be accessed at <http://gis1.tlc.state.tx.us/?PlanHeader=PLANc185>

Instructional Materials and the Instructional Materials Allotment—S.B. 6

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

Interested parties believe that it is essential for school districts to have the flexibility to purchase materials and technology to deliver the curriculum to prepare students for the new assessment system and contend that districts currently lack the flexibility to purchase additional materials or technological equipment to deliver instructional materials. This bill:

Changes the heading of Chapter 31, Education Code, from "Textbooks" to "Instructional Materials." Defines "instructional material" as content that conveys the essential knowledge and skills of a subject in the public school curriculum through certain mediums for conveying information to a student, and changes references throughout the Education Code from "textbooks" to "instructional materials."

Requires each school district that offers kindergarten through grade 12 to offer economics with emphasis on the free enterprise system and its benefits as part of a foundation curriculum rather than enrichment curriculum.

Provides that the state instructional materials fund consists of an amount set aside by the State Board of Education (SBOE) from the available school fund and all amounts lawfully paid into the fund from any other source; and requires money in the state instructional materials fund to be used for certain purposes, including funding the IMA; and provides that a school district is entitled to an annual allotment from the state instructional material fund for each student enrolled in the district on a date during the preceding school year specified by the commissioner of education.

Requires the commissioner of education to maintain an instructional materials account for each school district in which the commissioner each school year deposits the district's instructional materials allotment (IMA), authorizes a school district to use funds in the district's account to purchase electronic instructional materials or technological equipment, and authorizes a district at the end of each biennium to carry forward any remaining balance in the district's account to the next biennium.

Provides that a juvenile justice alternative education program is entitled to an allotment amount determined by the commissioner from the state instructional material fund; and provides that an open-enrollment charter school is entitled to the IMA and is subject to Chapter 31, Education Code, as if the school were a school district.

Authorizes funds allotted from the instructional materials fund to be used to purchase certain instructional materials, to pay for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use; and to pay the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

Requires a school district each year to use the district's IMA to prioritize the purchase of instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level, and prohibits a school district from charging a student for instructional material or technological equipment purchased by the district with the district's IMA.

Requires a school district, for the state fiscal biennium beginning September 1, 2011, to use an IMA to purchase instructional materials that will assist the district in satisfying performance standards under Section 39.0241 (Performance Standards), Education Code, on certain assessment instruments.

Authorizes a school district, not later than May 31 of each school year, to request that the commissioner of education adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number

of students attending school in the district will increase or decrease during the school year for which the allotment is provided, and authorizes the commissioner to adjust the number of students for which a district is entitled to receive an allotment, without the request by the district, if the commissioner of education determines a different number of students is a more accurate reflection of students who will be attending school in the district.

Requires the commissioner of education each year to adjust the IMA of a school district experiencing high enrollment growth, and requires the commissioner of education to establish a procedure for determining high enrollment growth districts eligible to receive an adjustment and the amount of the IMA those districts will receive.

Provides that SBOE, in adopting a review and adoption cycle for instructional materials in certain grade levels for each subject in the required curriculum, is not required to review and adopt instructional materials for all grade levels in a single year; and requires SBOE to give priority to instructional materials in certain foundational curriculum subjects and enrichment curriculum subjects.

Requires SBOE to organize the review and adoption cycle for subjects in the foundational curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium; requires SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years; and provides that SBOE is considered to have adopted instructional materials for certain subjects included in Proclamation 2011 for the biennium beginning September 1, 2011.

Requires that a notice of the review and adoption cycle for instructional materials published by SBOE state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials and is prohibited from submitting a print sample copy.

Requires SBOE to adopt a list of instructional materials for each subject and grade level that meet applicable physical specifications adopted by SBOE and contain material covering at least half of the elements of the essential knowledge and skills for the subject and grade level; and removes the requirement SBOE adopt a nonconforming list containing certain textbooks.

Requires the commissioner of education to adopt a list of certain instructional materials, and authorizes SBOE, not later than the 90th day after the date the material is placed on the list, to require the commissioner of education to remove material from the list.

Authorizes the commissioner of education, rather than SBOE, to purchase special instructional materials for the education of blind and visually impaired students in public schools, and to enter into agreements providing for the acceptance, requisition, and distribution of special instructional materials and instructional aids for use by certain students.

Requires a school district to purchase with the district's IMA or otherwise acquire instructional materials for use in bilingual education classes, and requires the commissioner of education to adopt rules regarding the purchase of bilingual instructional materials.

Provides that each instructional material purchased for a school district or an open-enrollment charter school as provided by Chapter 31 is the property of the district or school.

Requires the board of trustees of a school district or governing body of an open-enrollment charter school to determine how the district or school will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment; authorizes the board of trustees of a school district or governing body of an open-enrollment charter school to sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by SBOE or the commissioner and to also sell electronic instructional

materials and technological equipment owned by the district or school; and requires that any funds received by a district or school from such a sale be used to purchase certain instructional materials and technological equipment.

Authorizes the commissioner of education to establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to loan students equipment necessary to access and use electronic instructional materials; authorizes the commissioner to use not more than \$10 million from the state instructional materials fund each state fiscal biennium or a different amount determined by appropriations to administer such a grant program; and authorizes the commissioner of education to recover funds not used in accordance with the terms of the grant from any state funds otherwise due to the school district or open-enrollment charter school.

Authorizes a school district or an open-enrollment charter school to apply to the commissioner of education to participate in the grant program; authorizes a school district or open-enrollment charter school to use a grant awarded or other local funds to purchase, maintain, and insure equipment for a technology lending program; and provides that equipment purchased by a school district or open-enrollment charter school with a grant award is the property of the district or charter school.

Requires the commissioner of education, not later than January 1, 2013, to review the grant program and submit to the governor and certain members of the legislature a written report regarding the grants awarded.

Requires SBOE, beginning with the state fiscal biennium beginning September 1, 2011, each year to set aside an amount equal to 40 percent of the annual distribution for that year from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund, and requires that starting with the state fiscal biennium beginning September 1, 2013, that set aside amount equal 50 percent of the annual distribution rather than 40 percent.

Repeals numerous sections of the Education Code, and Sections 2175.128(a-1) (relating to making certain surplus or salvage data processing equipment available to the computer lending pilot program) and (b-1) (relating to disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education), Government Code.

Administration, Quality, and Efficiency of Health Care—S.B. 7

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

Legislation is required to improve the administration, quality, efficiency, and funding of health care, health and human services, and health benefits programs in Texas, and implement the cost-containment measures necessary to achieve the savings assumed in the General Appropriations Act adopted by the 82nd Legislature. Numerous changes to health care law, including measures designed to expand the managed care model for Medicaid, facilitate the operation of health care collaboratives, and implement vaccine immunization policies for certain workers are viewed by interested parties as necessary. This bill:

Requires the Health and Human Services Commission (HHSC), if cost-effective, to develop an objective assessment process for use in assessing a Medicaid recipient's needs for acute nursing services. Requires HHSC, if HHSC develops an objective assessment process under this section, to require that the assessment be conducted by certain individuals and that certain factors be considered during the assessment process. Requires HHSC, if HHSC develops the objective assessment process, to implement the process within the Medicaid fee-for-service model and the primary care case management Medicaid managed care model and take certain necessary actions. Requires the executive commissioner of HHSC (executive commissioner) to adopt rules providing for a process by which a provider of acute nursing services who disagrees with the results of the assessment conducted may request and

obtain a review of those results. Requires HHSC to consider implementing age-appropriate and diagnosis-appropriate objective assessment processes for therapy services.

Requires HHSC to determine the most cost-effective alignment of managed care service delivery areas. Authorizes the executive commissioner to consider the number of lives impacted, the usual source of health care services for residents in an area, and other factors that impact the delivery of health care services in the area. Requires HHSC to ensure that all recipients who are children and who reside in the same household may, at the family's election, be enrolled in the same managed care plan. Requires the external quality review organization to periodically conduct studies and surveys to assess the quality of care and satisfaction with health care services provided to enrollees in the STAR + PLUS Medicaid managed care program who are eligible to receive health care benefits under both the Medicaid and Medicare programs. Requires HHSC, in awarding contracts to managed care organizations, to give preference to certain organizations and consider certain factors. Requires that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain certain requirements. Requires HHSC, to improve the administration of these contracts, to perform certain functions. Requires a person who serves as a medical director for a managed care plan to be a physician licensed to practice medicine in this state under Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code. Requires each managed care organization contracting with HHSC to submit, at no cost to HHSC and, on request, certain information to the Office of the Attorney General. Requires HHSC, not later than December 1, 2013, to submit a report to the legislature regarding HHSC's work to ensure that Medicaid managed care organizations promote the development of patient-centered medical homes for recipients of medical assistance as required under Section 533.0029 (Promotion and Principles of Patient-Centered Medical Homes for Recipients), Government Code. Requires the executive commissioner of HHSC to adopt rules governing sanctions and penalties that apply to a provider who participates in the vendor drug program or is enrolled as a network pharmacy provider of a managed care organization contracting with HHSC under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, or its subcontractor and who submits an improper claim for reimbursement under the program.

Requires HHSC to use appropriate technology to confirm the identity of applicants for benefits under the supplemental nutrition assistance program or the financial assistance program, and prevent duplicate participation in the program by a person. Authorizes HHSC, absent an allegation of fraud, waste, or abuse, to conduct an annual review of claims only after HHSC has completed the prior year's annual review of claims. Requires a person, including an owner or employee of a facility, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation caused by another person to report the abuse, neglect, or exploitation. Sets forth the required components, processing, and investigation of a report of abuse, neglect, or exploitation. Provides that a person who reports an instance of abuse, neglect, or exploitation is immune from civil or criminal liability that, in the absence of the immunity, might result from making the report. Prohibits retaliation by a facility against an employee, volunteer, resident, resident's family member, or guardian who reports an instance of abuse, neglect, or exploitation.

Requires the executive commissioner by rule to adopt a system under which an appropriate number of licenses issued by the Department of Aging and Disability Services (DADS) under Chapter 242 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code, expire on staggered dates occurring in each three-year period.

Authorizes DADS, in implementing Section 161.081 (Long-Term Care Medicaid Waiver Programs: Streamlining and Uniformity), Human Resources Code, to consider implementing certain streamlining initiatives. Requires DADS and HHSC to jointly explore the development of certain uniform licensing and contracting standards. Requires DADS to perform a utilization review of services in all Section 1915(c) waiver programs.

Requires the executive commissioner, if cost-effective, by rule to establish a physician incentive program designed to reduce the use of hospital emergency room services for non-emergent conditions by recipients under the medical assistance program. Requires HHSC to conduct a study to evaluate physician incentive programs that attempt to

reduce hospital emergency room use for non-emergent conditions by recipients under the medical assistance program. Sets forth the required components of the study.

Requires the executive commissioner, to the extent permitted under and in a manner that is consistent with Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation or under a federal waiver or other authorization, to adopt, after consulting with the Medicaid and CHIP (Children's Health Insurance Programs) Quality-Based Payment Advisory Committee established under Section 536.002 (Medicaid and CHIP Quality-Based Payment Advisory Committee), Government Code, cost-sharing provisions that encourage personal accountability and appropriate utilization of health care services, including a cost-sharing provision applicable to a recipient who chooses to receive a nonemergency medical service through a hospital emergency room.

Authorizes HHSC, if cost-effective, to contract to expand all or part of the billing coordination system established under Section 531.02413 (Billing Coordination System) to process claims for services provided through other benefits programs administered by HHSC or a health and human services agency; expand any other billing coordination tools and resources used to process claims for health care services provided through the Medicaid program; and expand the scope of persons about whom information is collected under Section 32.042 (Information Required from Health Insurers), Human Resources Code.

Authorizes the executive commissioner to include certain federal money in a waiver sought under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan to allow HHSC to more efficiently and effectively use federal money paid to the state. Requires that any intergovernmental transfer received, including associated federal matching funds, be used, if feasible, for the purposes intended by the transferring entity and in accordance with the terms of the waiver.

Establishes the Medicaid and CHIP Quality-Based Payment Advisory Committee (advisory committee). Requires the executive commissioner to appoint the members of the advisory committee. Sets forth the required composition of the advisory committee. Requires HHSC, to the extent feasible, to develop certain outcome and process measures. Requires HHSC to develop quality-based payment systems in the manner specified by Chapter 536 (Medicaid and Child Health Plan Programs: Quality-Based Outcomes and Payments), Government Code. Requires HHSC, in developing quality-based payment systems, to examine and consider implementing certain alternatives. Requires HHSC and the advisory committee to ensure transparency in the development and establishment of certain quality-based payment and reimbursement systems. Requires HHSC, subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other applicable federal law, to base a percentage of the premiums paid to a managed care organization participating in the child health plan or Medicaid program on the organization's performance with respect to outcome and process measures developed under Section 536.003 (Development of Quality-Based Outcome and Process Measures), Government Code, including outcome measures addressing potentially preventable events. Authorizes HHSC to allow a managed care organization participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan. Authorizes HHSC, after consulting with the advisory committee, to develop and implement quality-based payment systems for health homes designed to improve quality of care and reduce the provision of unnecessary medical services.

Requires the executive commissioner to consult with the advisory committee to develop quality of care and cost-efficiency benchmarks and measurable goals that a payment initiative must meet to ensure high-quality and cost-effective health care services and healthy outcomes. Authorizes the executive commissioner to contract with appropriate entities, including qualified actuaries, to assist in determining appropriate payment rates for a payment initiative implemented.

Authorizes a public hospital or hospital district that provides health care services to a sponsored alien as defined by Section 61.012 (Reimbursement for Services), Health and Safety Code, to recover from a person who executed an affidavit of support on behalf of the alien the costs of the health care services provided to the alien. Authorizes

HHSC, if, at the time of application for benefits, a person stated that the person is a sponsored alien, to the extent allowed by federal law, to verify information relating to the sponsorship, using an automated system or systems where available, after the person is determined eligible for and begins receiving benefits under certain programs.

Requires the executive commissioner to adopt rules requiring the electronic submission of any claim for reimbursement for durable medical equipment and supplies under the medical assistance program.

Requires that money appropriated to the Department of State Health Services (DSHS) for the purpose of providing family planning services, notwithstanding any other law, be awarded to certain eligible entities in the order of descending priority public entities that provide family planning services or as otherwise directed by the legislature in the General Appropriations Act. Requires DADS to ensure that money spent for purposes of the demonstration project for women's health care services under former Section 32.0248, Human Resources Code, or a similar successor program is not used to perform or promote elective abortions, or to contract with entities that perform or promote elective abortions or affiliate with entities that perform or promote elective abortions. Prohibits a hospital district created under general or special law that uses tax revenue of the district to finance the performance of an abortion, except in the case of a medical emergency, from receiving state funding. Requires a physician who performs an abortion in a medical emergency at a hospital or other health care facility owned or operated by a hospital district that receives state funds to include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency; and certify to DSHS the specific medical condition that constituted the emergency not later than the 30th day after the date the abortion is performed. Requires that the statement be placed in the patient's medical records and be kept by the hospital or other health care facility where the abortion is performed until the seventh anniversary of the date the abortion is performed; or if the pregnant woman is a minor, the later of the seventh anniversary of the date the abortion is performed; or the woman's 21st birthday.

Sets forth legislative findings and intent related to compliance with certain antitrust laws.

Establishes and sets forth the purpose, administration, powers and duties, and health care collaborative guidelines, of the Texas Institute of Health Care Quality and Efficiency.

Authorizes a health care collaborative that is certified by the Texas Department of Insurance to provide or arrange to provide health care services under a contract with a governmental or private entity. Establishes the formation and governance, powers and duties, and regulation and enforcement for a health care collaborative. Prohibits an organization from organizing or operating a health care collaborative in this state unless the organization holds a certificate of authority issued under Chapter 848 (Health Care Collaboratives), Insurance Code. Establishes the application and renewal process for a certificate of authority. Prohibits an individual, subject to Chapter 843 (Health Maintenance Organizations) and Section 1301.0625 (Health Care Collaboratives), Insurance Code, from being required to obtain or maintain coverage under an individual health insurance policy written through a health care collaborative; or any plan or program for health care services provided on an individual basis through a health care collaborative.

Requires 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 readily identified through the use of a system that communicates to hospital personnel the existence of that risk. Authorizes the executive commissioner to adopt rules to implement a statewide standardized patient risk identification system. Authorizes the executive commissioner by rule to designate the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor, or the United States Department of Health and Human Services, to receive reports of health care-associated infections from health care facilities on behalf of DSHS. Sets forth certain reporting requirements related to potentially preventable events for hospitals and adverse health conditions. Provides that the powers and duties of the Texas Health Care Information Council under Chapter 108 (Texas Health Care Information Council), Health and Safety Code, were transferred to DSHS in accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the 78th

Legislature, Regular Session, 2003. Provides that confidential data collected under Chapter 108, Health and Safety Code, that is disclosed to a DSHS or HHSC program remains subject to the confidentiality provisions of that chapter and other applicable law.

Requires each health care facility to develop and implement a policy to protect its patients from vaccine preventable diseases. Sets forth the requirements of the vaccine preventable diseases policy. Establishes the Texas emergency and trauma care education partnership program. Requires the Texas Higher Education Coordinating Board (THECB) to administer the program in accordance with Subchapter HH (Texas Emergency And Trauma Care Education Partnership Program), Chapter 61 (Texas Higher Education Coordinating Board), Education Code. Authorizes THECB to make a grant to an emergency and trauma care education partnership only under certain conditions. Requires THECB, in awarding a grant, to give priority to certain emergency and trauma care education partnerships. Requires THECB to adopt rules for the administration of the Texas emergency and trauma care education partnership program.

Requires an insurer that markets a preferred provider benefit plan to contract with physicians and health care providers to ensure that all medical and health care services and items contained in the package of benefits for which coverage is provided, including treatment of illnesses and injuries, will be provided under the health insurance policy in a manner ensuring availability of and accessibility to adequate personnel, specialty care, and facilities. Establishes covered services of certain health care practitioners. Provides that the state enacts the Interstate Health Care Compact and enters into the compact with all other states legally joining in the compact. Establishes the Interstate Advisory Health Care Commission. Sets forth the composition, powers and duties, and funding for the Interstate Advisory Health Care Commission.

Requires the executive commissioner to seek a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan. Requires the waiver to be designed to achieve certain objectives regarding the Medicaid program and alternatives to the program. Requires HHSC to actively pursue a modification to the formula prescribed by federal law for determining this state's federal medical assistance percentage (FMAP) to achieve a formula that would produce an FMAP that accounts for and is periodically adjusted to reflect changes in the total population; the population growth rate; and the percentage of the population with household incomes below the federal poverty level in the state. Requires HHSC to make efforts to obtain additional federal Medicaid funding for Medicaid services required to be provided to illegal immigrants in this state. Establishes the Medicaid Reform Waiver Legislative Oversight Committee. Sets forth the composition and powers and duties of the Medicaid Reform Waiver Legislative Oversight Committee.

Requires the executive commissioner, if the executive commissioner determines that it will be cost-effective and increase the efficiency or quality of health care, health and human services, and health benefits programs in this state, by rule, to establish eligibility criteria for the creation and operation of an autologous adult stem cell bank.

School District Management and Operational Flexibility—S.B. 8

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

Current Texas law imposes burdensome restrictions on school districts' decision-making power in ways that range from requirements regarding personnel matters to mandates concerning school operation and resource allocation. This bill:

Provides that an employee's probationary, continuing, or term contract under Chapter 21 (Educators), Education Code, is void if the employee: does not hold a valid certificate or permit issued by the State Board for Educator Certification (SBEC); fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Subchapter B (Certification of Educators); or fails to comply with any requirement under Subchapter C (Criminal History Records), Chapter 22

(School District Employees and Volunteers) if the failure results in suspension or revocation of the employee's certificate.

Authorizes a school district to take certain actions if the district has knowledge that an employee's contract is void. Prohibits a school district from terminating or suspending an employee whose contract is void because the employee failed to renew or extend the employee's certificate or permit if the employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit, and if the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit not later than the 10th day after the date the contract is void.

Requires a candidate, before a school district may employ the candidate for certification as a teacher of record, 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 certain public school campuses or private schools; and provides that that requirement applies only to an initial certification issued on or after September 1, 2012.

Requires the board of trustees of a school district to give notice not later than the 10th day before the last day of instruction required under a probationary contract to the teacher employed under the probationary contract of the board's decision to terminate the employment of the teacher at the end of the contract period; requires the board of trustees of a school district to notify in writing not later than the 10th day before the last day of instruction in a school year each teacher whose term contract is about to expire whether the board proposes to renew or not renew that term contract; and provides certain requirements regarding those notices.

Authorizes a teacher employed under a continuing contract to be released at the end of the school year and the teacher's employment with the school district terminated at that time because of a necessary reduction of personnel by the school district, and provides that those reductions be made primarily based upon teacher appraisals administered under Section 21.352 (Local Role), Education Code, rather than in the reverse order of seniority.

Provides that a teacher is entitled to a hearing if the teacher is protesting proposed action under certain sections of the Education Code regarding probationary contracts and continuing contracts, or is entitled to a hearing if the teacher is protesting proposed action to terminate a probationary contract before the end of the contract period or a term contract at any time on the basis of a declared financial exigency that requires a reduction in personnel.

Authorizes the board of trustees of a school district with an enrollment of at least 5,000 students, if a teacher desires a hearing after receiving notice of the proposed nonrenewal, to designate an attorney licensed to practice law in Texas to hold a hearing on behalf of the board; requires the board's designee, not later than the 15th day after the completion of the hearing, to provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed; and requires the board to notify the teacher in writing of the board's decision not later than the 15th day after the date of the board meeting at which the board considers the record of the hearing and the designee's recommendation.

Authorizes the board of trustees of a school district to choose to amend the terms of a contract of a superintendent employed under a term contract on the basis of a declared financial exigency that requires a reduction in personnel, and authorizes a superintendent whose contract is amended to resign without penalty by providing reasonable notice to the board.

Provides that a determination by the hearing examiner regarding good cause for the suspension of a teacher without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board of trustees or board subcommittee; and authorizes the board of trustees or board subcommittee to adopt, reject, or change the hearing examiner's conclusions of law, including such a determination, or proposal for granting relief.

Authorizes the board of trustees of a school district to implement a furlough program and reduce the number of days of service by no more than six days of service during a school year if the commissioner of education (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; authorizes the board of trustees to reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced; and requires such a furlough program to subject all contract personnel to the same number of furlough days.

Prohibits an educator from being furloughed on a day that is included in the number of days of instruction and from using personal, sick, or any other paid leave while the educator is on furlough. Prohibits the implementation of a furlough program from resulting in an increase in the number of required teacher workdays.

Provides that such a furlough does not constitute a break in service for purposes of the Teacher Retirement System of Texas (TRS) and that a furlough day does not constitute a day of service for TRS purposes.

Provides that if a board of trustees adopts a furlough program after the date by which a teacher must give notice of resignation, a teacher who subsequently resigns is not subject to sanctions imposed by SBEC.

Prohibits the board of trustees of a school district from implementing a furlough program or reducing salaries until a school district uses a process to develop a furlough program or other salary reduction proposal that includes the involvement of the district's professional staff and provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal at a required public meeting at which the board and school district administration present certain information relating to the furlough program.

Provides certain requirements regarding the reduction of the amount of the annual salary paid to each district administrator or other professional employee for any school year in which a district has reduced the amount of the annual salaries paid to district classroom teachers from the amount paid for the preceding school year, and provides that such requirements are applicable only to a widespread reduction in the amount of the annual salaries paid to school district classroom teachers based primarily on district financial conditions rather than on teacher performance.

Requires the commissioner of education, 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; requires the commissioner of education to certify the percentage decrease in funding to be provided by the district if the amount estimated to be provided is less; and requires the commissioner of education to include certain considerations in making those determinations regarding funding levels.

Authorizes the board of trustees of a school district to adopt a resolution declaring a financial exigency for the district; provides that such a declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year; and requires the commissioner of education, by rule, to adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the board of trustees of the district.

Repeals Section 12.1331 (Wage Increase for Certain Professional Staff), Education Code; Section 21.402(d) (providing that a classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor or full-time school nurse employed by a school district in the 2010-2011 school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2010-2011 school year), Education Code; and Sections 33.902(b) (requiring each school district that fulfills certain criteria to annually consider during at least two public hearings the need for and availability of child care during certain time periods for the district's school age students), Education Code and (c) (relating to the district effectively publicizing

such hearings and requiring the Work and Family Policies Clearinghouse in the Texas Workforce Commission, not later than May 1 of each year, to distribute to school districts certain information regarding model prekindergarten and school-age child care programs), Education Code.

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